IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP Nos.814, 1090, 1204, 2698, 3698, 3699, 3702, 3703, 3736, 3913, 3915, 4931, 5329 of 2020 and CWP Nos. 2974, 2975, 2976, 2978, 2979, 3043, 3079, 3536 and 7999 of 2021

Date of Decision: 27.10.2025

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1. CWP No.814 of 2020
Mohan Singh and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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2. CWP No.1090 of 2020
Jitendra Devi and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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3. CWP No.1204 of 2020
Yadav Singh and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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4. CWP No.2698 of 2020
Devi Singh and Ors.

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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5. CWP No.3698 of 2020
Khem Chand Verma

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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6. CWP No.3699 of 2020
Manohar Singh Kanwar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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7. CWP No.3702 of 2020

Amit Kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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8. CWP No.3703 of 2020
Kirpa Ram Thakur

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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9. CWP No.3736 of 2020
Hardev Singh

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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10. CWP No.3913 of 2020
Vikas Kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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11. CWP No.3915 of 2020
Om Prakash and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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12. CWP No.4931 of 2020
Shalini Sharma

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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13. CWP No.5329 of 2020
Bhupender Chauhan

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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14. CWP No.2974 of 2021
Santosh Bhardwaj

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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15. CWP No.2975 of 2021
Kaushlya Bhardwaj

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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16. CWP No.2976 of 2021
Vidya Dutt Sharma

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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17. CWP No.2978 of 2021
Sunil kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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18. CWP No.2979 of 2021
Sashi Kant

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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19. CWP No.3043 of 2021
Poonam Saklani

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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20. CWP No.3079 of 2021
Mayank Saklani

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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21. CWP No.3536 of 2021
Radha Chauhan and Ors.

.....Petitioners

Versus

State of Himachal Pradesh and Ors.

.....Respondents

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22. CWP No.7999 of 2021

Arun Kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting? Yes.

For the Petitioners: Mr. Chandranarayana Singh, Dr. Nidhi Singh, Mr. Rakesh Dogra, Mr. Nitin Thakur and Mr. Tarun Sharma, Advocates, for the petitioner(s), in the respective petitions.

For the respondents: Mr. Anup Rattan, Advocate General, Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, and Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for the State.

Mr. Sanjeev Kumar Motta, Advocate, for the Commission.

Mr. Balram Sharma, Deputy Solicitor General of India with Mr. Kunal Thakur, CGC, for the respondent-Union of India, in all the petitions.

Sandeep Sharma, J. *(Oral)*

Since common question of facts and law are involved in the above captioned cases, this court after having clubbed all the cases, heard them together and now with the consent of learned counsel for the parties, same are being disposed of vide common judgment.

2. Petitioners herein, who were offered appointment on contract basis on different posts i.e. Sr. Treatment, Supervisor(STS), Laboratory Technician, Lab Technician, Sr. TB. Supervisor, Sr. Dot Plus & TB-HIV Supervisor, Sr. TB Laboratory Supervisor (STLS)

Counselor STI Clinic, Sr. TB Lab Supervisor, Laboratory Assistant, Laboratory Technician (LT) and Data Entry operator etc., by Himachal Pradesh State Health and Family Welfare Society on different pay scales, have been denied the benefit of regularization in terms of policy of regularization framed by the Government of Himachal Pradesh on the pretext that they are not employees of the respondent-State, but of afore Society.

3. After being appointed on contract basis by afore society, petitioners herein have been performing work in the Directorate of Health, Government of Himachal Pradesh, for more than two decades. Though respondent-State by way of promulgating various policies of regularization from time to time, regularized the services of many employees, who were initially appointed on contract basis, but since despite there being repeated requests, petitioners herein were not considered for regularization in terms of policy of regularization (Annexure P13 and P16), they are compelled to approach this Court in the instant proceedings.

4. Before cases at hand could be heard and decided on their own merits, learned counsel for the petitioners invited attention of this court to judgment dated 23.9.2025 passed in bunch of cases, lead case whereof is CWP No. 4971 of 2024, titled as ***Nitin Thakur v. State of Himachal Pradesh and Ors***., alongwith connected matters, to state that their cases are squarely covered with Nitin Thakur (supra)

and as such, directions can be issued to the respondents to consider their cases in light of aforesaid judgment.

5. While making this court peruse averments contained in the petitions, which are duly supported by the affidavits as well as documents annexed therewith, learned counsel representing the petitioner(s) submitted that main ground raised in one common reply filed by the respondents-State is that petitioners herein are not employees of the State, rather of the Society and as such, cannot seek regularization in terms of policy of regularization framed by Government of Himachal Pradesh. Learned counsel representing the petitioner(s) submitted that aforesaid issue with regard to employment given by the respondents-State or society has been elaborately dealt with by this Court in **Nitin Thakur's** case (supra). They submitted that since it is apparent from the material adduced on record by the parties that society is created and controlled by the respondents-State and its day to day affairs are managed by the officers of the respondents-State coupled with the fact that petitioners are still discharging their duties qua the posts they were appointed on contract basis 20 years back, direction passed by this Court in **Nitin Thakur** (supra) can be ordered to be made *mutatis mutandis* applicable in the present cases.

6. To the contrary, Mr. Anup Rattan, learned Advocate General, while refuting aforesaid submissions made at the behest of

the petitioners strenuously argued that case of the petitioners is not covered by Nitin Thakur's judgment for the reason that petitioners herein were never given appointment by the respondent-State in terms of Recruitment & Promotion Rules, rather they were given appointment by the Society named herein above that too for the purpose of completion of project. He further submitted that bare perusal of affidavit filed by the respondent-Union of India, in the cases at hand, itself suggests that under National Health Mission (NHM), technical and financial support is provided to the States by Union of India, based on requirements proposed in Programme Implementation Plans (PIPs) submitted by them. Under NHM, there is a sharing pattern of 60:40 (Central Share:State Share) for all States/UTs except North-Eastern States and specifically hilly states, with which, the sharing pattern is 90:10 (Centre:State). He submitted that since 90% of the fund is to come from Government of India, petitioners cannot claim regularization because in that situation, their salary would have to be given by the respondent-State. He further submitted that technical and financial support under NHM is provided by the central government for strengthening the health system as well as providing infrastructure, drugs, ambulances, diagnostics and Human Resource on contractual basis. Contractual Human Resource includes programme management staff and clinical HR such as specialists, doctors, staff nurses and lab technicians etc.

7. At this stage, Mr. Balram Sharma, learned DSGI, specifically referred to paras 11 and 12 of the affidavit filed by Under Secretary, Ministry of Health and Family Welfare, Government of Himachal Pradesh, to state that Health is a State subject and all matters relating to human resources for health (HRH) including the regularization of NHM employees come under the jurisdiction of the State/UT government. The NHM provides financial and technical support to the States/UTs to strengthen their healthcare systems, including supplementation of regular health human resources on contractual basis to meet the existing gap in the requirement for HRH in the States/UTs. Mr. Sharma, further argued that concerned State Government is responsible for recruitment/engagement of human resource (contractual/conditional/volunteers etc.) including their transfers termination of services, payment of wages/remuneration/task based incentives etc and the central government does not have any role in the issuance of the same.

8. Having heard learned counsel for the parties and perused pleadings as well as documents adduced on record by the respective parties vis-à-vis perused judgment rendered by this Court in Nitin Thakur (supra), this court is persuaded to agree with learned counsel for the petitioners that issue sought to be decided in the cases at hand already stands adjudicated in aforesaid judgment and as such, no prejudice shall be caused to either of the parties in case directions

contained in Nitin Thakur's case are ordered to be made applicable *mutatis mutandis* in the cases at hand.

9. Having carefully perused judgment rendered by this Court in Nitin Thakur's case, this Court is not persuaded to agree with Mr. Anup Rattan, learned Advocate General that judgment in Nitin Thakur's case is not applicable in the cases at hand. Perusal of judgment rendered in Nitin Thakur's case clearly suggests that differences raised by the respondents-State in the instant petitions to refute the claim of the petitioners have been elaborately dealt with and considered in Nitin Thakur's case. In Nitin Thakur's case, this Court having taken note of the fact that petitioners in afore case were appointed on contract basis by Horticulture Society, but since complete control of the society was with the respondents-State coupled with the fact that petitioners in that case have been uninterruptedly rendering their services for years together, while lifting the corporate veil specifically concluded that appointment given to the petitioners in that case by the society is mere camouflage, rather for all intents and purposes, petitioners in that case are employees of the respondents-State and as such, they are entitled to benefit of policy of regularization framed by the respondents-State from time to time.

10. Relevant paras of affidavit filed by Under Secretary, Ministry of Health and Family Welfare, are reproduced herein below (paras 7 to 12),

> "7. That it is submitted that under NHM, technical and financial support is provided to the States, based on requirements proposed in Programme Implementation Plans (PIPs) submitted by them. Under National Health Mission, there is a sharing pattern of 60:40 Central share:State share) for all States/UTs except North-Eastern States and specifically hilly States, with which the sharing pattern is 90:10(Centre:State)
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> 8.That NHM does not substitute the expenditure to be borne by States/ UTs on health care, but only supplements efforts of he State Governments, for strengthening health system in the States/UTs.
>
> 9. That the technical and financial support under NHM, is provided for health system strengthening, including for infrastructure, drugs, ambulances, diagnostics and human resources on contractual basis. The contractual Human resources include programme management staff and clinical HR such as Specialists, doctors, Staff nurses, Lab technicians etc.
>
> 10. That under this Mission, the role of the Replying Respondent is to provide support to States as per norms, in implementing the approved health interventions, as Public Health falls under the Purview of the State Government.
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> 11.That it is submitted that Health is a state subject, and all matters related to human resources for health (HRH) including the regularisation of NHM employees come under the jurisdiction of the State/UT Government. The National Health Mission (NHM) provides financial and technical strengthen their healthcare systems, including supplementation of regular health human resources on contractual basis to meet the existing gap in the requirement for HRH in the States/UTs.

> The NRHM framework document (2005-2012) states that for improving the availability of human resources, contractual appointment under NHM to a facility for filling short-tem gaps. The framework for implementation of NHM 2012-17 mentions about sustainability of contractual human resources and plan for their inclusion in state budget.
>
> 12. That it is submitted, that concerned State Government is responsible for recruitment/engagement of human resource (contractual/conditional/volunteers etc.) including their transfers termination of services, payment of wages/remuneration/task based incentives etc and the Replying Respondent do not have any role in the issuance of the same."

11. Though careful perusal of aforesaid affidavit suggests that under NHM, there is a sharing pattern of 90:10, but there is nothing in the afore pattern, suggestive of the fact that this arrangement is for a limited period, rather admitted case of the respondents is that for more than two decades, petitioners herein are working in the Health Department, may be under the aegis of the society. Moreover, reply filed by the respondents clearly suggests that though financial and technical support to the State/UTs is to strengthen the health care system including supplementation of regular health human resources on contractual basis to meet the existing gap in requirement of human resource is provided by the central government, but ultimately state government is responsible for recruitment/engagement of human resources, which may be contractual, conditional or voluntary.

12. At this stage, it would be apt to take note of letter dated 21.7.2009, issued by Principal Secretary Health i.e. Annexure P-4 annexed with CWP No. 2974 of 2021, which reads as under:

> "I have the honour to invite reference to our letter No. Health-A-B (15)-5/2007-Loose, dated 2.5.2009 on the subject mentioned above.
>
> In this behalf Health & Family Welfare Department concerned, approximately 550 employees of various categories are working on contract basis since 1998 onwards under various schemes/projects being implemented through the Health & Family Welfare Department. They are working under following Programmes/Societies /Projects:

Sr. No.	Project/Scheme
1	NRHM (National Rural Health Mission)
2	RCH-II (Reproductive Child Health)
3	RNTCP (Revised National Tuberculosis Programme)
4	IDSP (Integrated Disease Surveillance Programme)
5	NLEP (National Leprosy Elimination Programme)
6	NPCB (National Blindness Control Programme)
7	AIDS Control Society.
8	WHO (World Health Organization)
9	VBDCP (Vector Born Disease Control Programme)
	Total

> All the above projects are implemented with Central Assistance for a specific period and will end within next 2-3 years.

> Contract of these employees will also end along with the projects/schemes.
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> Following societies have been merged with NRHM Society w.e.f. 8-2008, RCH-II, RNTCP, IDSP, NLEP, NPCB, AIDS AND VBDCP.
>
> These contractual employees have gained experience and are doing valuable services in the department. It would be appropriate if their services are regularized in the department against such vacant posts for which they fulfill necessary qualification. The detail of the employees who are working on contractual basis is enclosed."

13. Careful perusal of afore communication clearly reveals that having taken note of uninterrupted services rendered by the petitioners as well as experience gained by them during the service, Director (Health) to the Government of Himachal Pradesh, requested the Principal Secretary Health to the Government of Himachal Pradesh, to regularize the services of the petitioners in the department against such vacant posts, for which they fulfill necessary qualification. It also emerges from the aforesaid communication that Health and Family Welfare department engaged approximately 550 employees of various categories on contract basis since 1998 onwards under various schemes /projects implemented through Health and Family Welfare Department i.e. National Rural Health Mission, Reproductive Child Health, Revised National Tuberculosis Programme, Integrated Disease Surveillance Programme, National Leprosy Elimination Programme, National Blindness Control Programme, National Blindness Control Programme, AIDS Control

Society, World Health Organization and Vector Born Disease Control Programme.

14. Since persons engaged under various programmes gained sufficient experience coupled with the fact that societies came to be merged with NRHM Society w.e.f. 8.2008, RCH-II, RNTCP, IDSP, NLEP, NPCB, AIDS and VBDCP, department itself having realized utility of such employees coupled with the valuable service rendered by them recommended for their regularization.

15. Though at this stage, learned Advocate General, attempted to argue that such proposal was never accepted by the government and as such, cannot be a ground to accept the prayer made by the petitioners, however, this Court is not impressed with the aforesaid submission of him for the reason that since their initial appointment, petitioners herein have been continuously discharging their services, meaning thereby, there is not only availability of work but funds are also being received by the Government of Himachal Pradesh from the Centre. If it is so, rightful claim of the petitioners for regularization in terms of policy of regularization cannot be permitted to be defeated by the respondents on the ground that petitioners herein are the employees of society.

16. Since each and every aspect of the matter has been dealt with by this Court in **Nitin Thakur** (supra), there appears to be no reason for this Court to again deal with this issue, rather petitions at

hand can be disposed of in light of judgment rendered in Nitin Thakur's case.

17. Consequently, in view of the above, present petitions are allowed in terms of judgment rendered by this Court in **Nitin Thakur's** case (supra), directions contained whereunder shall apply in these cases *mutatis mutandis* for all intents and purposes. In the aforesaid terms, present petitions are disposed of alongwith pending applications, if any.

October 27, 2025 **(Sandeep Sharma),**
(manjit) **Judge**