IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Execution Petition No.1776 of 2026
Decided on: 04.11.2026

Rajender Kumar

...Petitioner

Versus

State of H.P. and another

...Respondents

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting? [1]

For the petitioner:	Mr. Virbahadur Verma and Mr. Aditya Singh Thakur, Advocates.
For the respondents:	Mr. Balvinder Singh Ballu, Deputy Advocate General, for respondent No.1-State.
	Ms. Oshin Anand Chauhan, Advocate vice Mr. Yudhbir Singh Thakur, Advocate, for respondent No.2.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner is seeking implementation of judgment dated 04.06.2025, passed in CWP No.977 of 2020, titled, ***Rajender Kumar vs. State of H.P. & Ors.,*** along with connected matters.

2. As per the operative part of the judgment, which is sought to be executed, respondents No.1 and 2 in the writ petition were directed to consider the case of the petitioner as forwarded by respondent No. 2-Maharaja Lakshman Sen

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

2026:HHC:48739

Memorial College, Sundernagar and decide the same within eight weeks from the date of passing of the judgment by passing a detailed and reasoned order after taking into consideration the observations made in the judgment.

3. The claim of the petitioner in the writ petitions was that he was appointed as Lab Bearers in respondent No.2-College initially on a consolidated salary, but his services were later on regularized in the pay scale of Rs.750-1350/-. Since respondent No.2-College was in receipt of grant-in-aid at the rate of 95% from the State Government since 18.03.1986, it was affiliated with the Himachal Pradesh University. The petitioner had raked up his demand that since the Government run colleges did not have the category of Lab Bearers, he be re-designated as Lab Attendant as he is matriculate and further be paid the pay scale of Rs.950-1800/- from the date of his initial appointment.

4. This Court after taking note of various correspondences made by respondent No.2-College, had come to the conclusion that the State Government had not taken any decision to re-designate him as Lab Attendants and also to grant him the revised pay scale of Rs.950-1800/- along with other petitioners. Further, the Court while taking note of the fact that as per the inspection note dated 13.11.2007, it was

2026:HHC:48739

observed that there were already four existing posts of Lab Attendants and thus, there being no vacancy, none of the petitioner could be considered against such posts, had come to the conclusion that the respondents had not considered the matter in the right perspective and that is why no final decision had been taken and consequently allowed the petition, directing respondents No.1 and 2 in the writ petition to consider the case of the petitioner as forwarded by respondent No.2-College and decide the same within eight weeks.

5. The Director of Higher Education, Himachal Pradesh, vide order dated 31.03.2026, passed a detailed order in compliance with the directions given by the Court and came to the conclusion that the Managing Committee of respondent No.2-College had converted the post of Lab Bearers to Lab Attendants, vide order dated 28.08.2001. However, the proposal for approval was submitted after a lapse of approximately 10 years and as such, the benefit of pay scale for the post of Lab Attendant as requested by the petitioner has already been extended to him, as evident from the service book record and from the due drawn statement of the petitioner submitted on 15.09.2025 and thus the petitioner is not entitled to any further relief from the respondent-State as

2026:HHC:48739

the benefits claimed in the petition has already been granted.

6. Learned counsel for the petitioner has vehemently argued that the Director of Higher Education, Himachal Pradesh has not taken the decision as per the direction given by this Court while allowing the writ petition and as such, the judgment sought to be executed has not been complied with in letter and spirit.

7. On the other hand, learned Deputy Advocate General has supported the order passed by the Director of Higher Education, Himachal Pradesh and submitted that in case the petitioner is aggrieved by the said order, the appropriate course available to him is to file writ petition and this Court cannot enlarge the scope of the execution petition, more particularly when the Court had only given the direction to consider the case of the petitioner as forwarded by respondent No.2-College and decide the same within eight weeks from the date of passing the judgment. Since the mandate given in the judgment has duly been complied with, he prayed for dismissal of the petitions.

8. Learned counsel representing respondent No.2-College has submitted that the representation of the petitioner was duly forwarded to the Director of Education, Himachal Pradesh on 31.08.1999 (Annexure R-2/1), which was already

2026:HHC:48739

placed on record in the writ proceedings and the petitioner who was designated as Lab Bearers, was given Class-IV scale and the post of Lab Attendant is a Class-III post and since the implementation involves finances, it was decided to seek the approval of the Director before implementation. It has further been argued that other non-government affiliated colleges had already implemented the instructions dated 11.03.1990 and this anomaly had also been pointed out by the Joint Director (Colleges) in his inspection report dated 08.02.1999 and thus submitted that the College has no objection to the directions being issued to the official respondents to implement the judgment and to approve the pay fixation and release the corresponding grant-in-aid, so that the benefits can be disbursed to the petitioner.

9. I have heard the learned counsel for the parties and also perused the record carefully.

10. This Court while disposing of the writ petition preferred by the petitioner alongwith other persons by a common judgment, had only given direction to respondents No.1 and 2 in the writ petition to consider the case of the petitioner as forwarded by respondent No.2-College and decide the same within eight weeks from the date of passing of the judgment. No doubt, the Court before passing the

2026:HHC:48739

aforesaid direction, had taken note of the fact that the post of Lab Bearers did not exist in Government Colleges and further in MCM DAV College, Kangra, the Director of Education had approved the proposal to re-designate its Lab Bearers as Lab Attendants and to grant him the pay scale of Rs.950-1800/-, but the Court had not given any specific direction that the petitioner be also given the same pay scale of Rs.950-1800/- and thus, the Court while executing the judgment, cannot incorporate/insert any words that the petitioner was entitled to the said pay scale of Rs.950-1800/-.

11. Learned counsel representing the petitioner has placed reliance upon the judgment passed by the Hon'ble Supreme Court in ***A.P.S.R.T.C. and others versus G. Srinivas Reddy and others***, (2006) 3 SCC 674 and contended that since this Court while allowing the writ petition preferred by the petitioner, had given direction to consider his case in light of the observations, it was incumbent upon the Director of Higher Education, Himachal Pradesh to decide the matter and since the decision has not been taken in terms of the observations made in the judgment, the judgment sought to be executed has not been implemented in its letter and spirit.

12. I have gone through the judgment cited at Bar and

2026:HHC:48739

am of the considered view that the same is not attracted to the facts of the present case for the reason that the Court had not given direction to the respondents to grant the petitioner the pay scale of Rs.950-1800/-. In case, the Court was of the opinion that the petitioner is entitled to the pay scale of Rs.950-1800/-, the Court would have given direction to consider the case of the petitioner as forwarded and grant him the pay scale of Rs.950- 1800/-. However, the said direction has not been given and, therefore, this Court while considering the execution petition, cannot enlarge its scope and read something in the judgment, which is not the direction given to the respondents.

13. It is by now settled in catena of judgments that the Court cannot go behind the decree. In the present case, as already noticed above, the Court had only given direction to consider the case of the petitioner as forwarded by respondent No.2-College and decide the same and since the competent authority has now taken a decision, the appropriate remedy available to the petitioner is only to raise the issue by filing a writ petition rather than an execution petition.

14. Consequently, I do not find any merit in the present execution petition and the same are accordingly dismissed in view of the fact that the mandate contained in

2026:HHC:48739

the judgment sought to be executed has duly been complied with and the competent authority has passed an order on 31.03.2026. However, it is made clear that in case the petitioner is aggrieved by the said decision, he may avail an appropriate remedy in accordance with law.

15. The petition is accordingly disposed of. Pending miscellaneous application(s), if any, shall also stand disposed of.

04th November, 2026 **(Jiya Lal Bhardwaj)**
(Anurag) **Judge**