

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1) CWP No.4817 of 2022 (O&M)

Rohit and others

....Petitioners

Versus

State of Haryana and others

....Respondents

2) CWP No.7102 of 2022 (O&M)

Nidhi and others

....Petitioners

Versus

State of Haryana and others

....Respondents

1	The date when the judgment is reserved	09.04.2026
2	The date when the judgment is pronounced	29.05.2026
3	The date when the judgment is uploaded on the website	29.05.2026
4	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced	Full
5	The delay, if any, of the pronouncement of full judgment, and reasons thereof	Not Applicable

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:

Mr. Ravi Verma, Advocate, for
Mr. Ashwani Verma, Advocate,
for petitioners no.1 to 3 and 5 in CWP No.4817 of 2022.
(petition *qua* petitioners no.6 and 4 has already been dismissed
as withdrawn vide orders dated 25.07.2023 and 09.04.2026,
respectively)

Mr. Mohit Garg, Advocate,
for petitioner no.2 in CWP No.7102 of 2022.
(petition *qua* petitioners no.1 and 3 has been dismissed as
withdrawn vide order dated 04.12.2024)



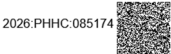
Mr. Aakash Singla, Additional Advocate General, Haryana.

Mr. Raman B. Garg, Advocate, for respondent no.3.

TRIBHUVAN DAHIYA, J.

These two petitions are being decided together since common questions of law on similar facts arise for consideration. For brevity, the facts are being noticed from CWP No.4817 of 2022, which has been filed *inter alia* seeking a writ of *certiorari* setting aside the letters/memorandums dated 28.01.2022 and 02.02.2022, Annexures P-9 and P-8, respectively, to the extent the same limit the petitioners' engagement in service up to 31.03.2022, that too by way of outsourcing through a private contractor. Further, a writ of *mandamus* has been sought directing the respondents to allow the petitioners to continue working as contractual Research Scientists and Research Assistants till regular appointments are made against existing posts.

2.1. Facts in brief are, during the outbreak of pandemic Covid-19, a need was felt by the Government for appointment of trained personnel (Doctors and Technical Staff) on contract basis for running Viral Research and Diagnostic Laboratories (VRDL). And a decision was taken at the level of respondents no.1 and 2 vide memorandum dated 28.03.2020, Annexure P-1, to permit appointment of trained personnel on contract basis for three months for running VRDLs in view of outbreak of the pandemic. Directors of the State medical colleges - Pandit Bhagwat Dayal Sharma Post Graduate Institute of Medical Sciences, Rohtak, Bhagat Phool Singh Government Medical College for Women, Khanpur Kalan, Sonapat, Kalpana Chawla Government Medical College, Karnal, Shaheed Hasan Khan Mewati Government Medical College, Nuh, and the respondent Maharaja Agrasen Medical College (MAMC),



Agroha, District Hisar - were requested to appoint the staff after considering the eligibility criteria for the posts at their own level for running the VRDLs round the clock all days a week - 24x7. In terms of the memorandum, the respondent College - MAMC was required to appoint four Research Scientists (Medical) at monthly salary of ₹65,000, four Research Scientists (Non-Medical) at monthly salary of ₹60,000, four Research Assistants at monthly salary of ₹35,000, and eight Lab Technicians at monthly salary of ₹30,000.

2.2. Another memorandum dated 01.06.2020, Annexure P-2, was issued by the second respondent/Directorate of Medical Education and Research to the aforesaid medical colleges informing that the Government has desired *‘all Corona Positive cases be hospitalised only in the dedicated exclusive COVID-19 hospitals as per the allocation of districts’*. The respondent College was allocated five districts – Hisar, Sirsa, Fatehabad, Bhiwani and Kaithal, for treatment of such cases/patients.

2.3. Accordingly, vide letter dated 27.03.2020, Annexure P-11, the College conveyed to respondent no.1 the requirement of manpower for providing 24x7 services for Covid-19 PCR Labs at the MAMC, Agroha, which is as follows:

Additional trained personnel (Doctors and Technical Staff) Required for running labs		Availability to be appointed on contract basis	Expected salary at which they can (be) hired
Research Scientist (Medical)-I	04	Not available	65000/-
Research Scientist (Non-Medical)	04	Not available	60000/-
Research Assistant	04	Not available	30000/-
Lab Technician	08	Not available	25000/-
Data Entry Operator	04	Not available	16000-20000/-
Multi Task Worker	12	Not available	12000-15000/-

2.4. In these circumstances, the petitioners were appointed in the respondent College as Research Scientists for a period of three months. It is



an undisputed fact that they fulfilled the requisite qualifications for the post, and their appointment was made after following the due procedure of selection on the recommendation of a duly constituted selection committee in view of the letters dated 28.03.2020 and 01.06.2020; appointment letter of one of the petitioners, i.e., petitioner no.2, dated 14.09.2020, has been appended to the petition as Annexure P-3.

2.5. Although the petitioners were given contractual appointment for a limited term, they were allowed to continue working as such even after expiry of the contract period. Later, the Directorate issued impugned memorandum dated 02.02.2022 to the State Government Colleges, including the respondent College, informing that *‘further extension is hereby granted to all the existing employees working in the medical colleges in outsourcing policy part-I up to 31.03.2022 for management of COVID-19 Pandemic. No additional engagement and no fresh appointment to be made by colleges without approval.’*

2.6. The respondent College also issued the impugned letter, dated 28.01.2022, addressed to the Proprietor of M/s M4 Solutions Pvt. Ltd., Gurgaon, asking him to engage the contractual employees detailed therein, including the petitioners, with effect from 01.01.2022 to 31.03.2022. He was also required to submit wages/salary bills of these employees at the end of every month for disbursement of salary at the rates prescribed by the College.

2.7. Subsequently, the Directorate issued letter dated 22.03.2022, Annexure P-15, regarding extension of engagement of the staff appointed during Covid-19 in VRDLs, advising the medical colleges, including the respondent College, to re-engage the manpower/contractual staff through Haryana Kaushal Rozgar Nigam Limited (for short, ‘the Nigam/HKRNL’).



Another memorandum dated 28.07.2022, Annexure P-17, was issued by the Directorate to the State medical colleges (not to the respondent College) regarding re-engagement of such staff through the Nigam. Since there was no such advice to the College concerning the petitioners' services, it was obvious that they would be relieved. In this situation, they approached this Court by filing the instant petition and vide interim order dated 10.03.2022, *status quo* with regard to their appointment was ordered to be maintained. Accordingly, they continue serving in the College.

2.8. Thereafter, during pendency of the petition, a memorandum dated 09.08.2023, Annexure P-19, was issued by the Mission Director, National Health Mission (NHM), Haryana, regarding adjustment of the human resource/staff who were engaged for management of Covid-19 pandemic under the NHM. It was to the effect that 674 out of 826 Covid-19 employees would be adjusted against the vacant posts under NHM through outsourcing, and the remaining employees would be adjusted in the office of Director General, Health Services against vacancies. The memorandum reads as under:

From

Mission Director,
National Health Mission,
Bays 55-58, Sector 2, Panchkula.

To

Director General Health Services,
Sector-6, Panchkula,
Haryana.

Memo no.NHM/Admn/HRC-1/2023-24/4026 Dated: 09/08/2023

Subject: Regarding adjustment of Human Resource engaged
on temporary basis under National Health Mission,
Haryana for the management of COVID-19.

Kindly refer to the subject cited above.



It is intimated that as per the guidelines and funds supported by GoI, NHM Haryana had engaged 826 different categories of HR on temporary basis to manage the Covid-19 related activities upto 31.03.2022. Thereafter the Haryana Government has accorded sanction for the continuation of 826 temporary covid HR through HKRNL for further one year i.e., upto 31.03.2023.

It is worthwhile to mention here that, the temporary staff engaged under COVID-19 are skilled and trained which may be helpful for running various programmes under Health Department.

Keeping in view the above, the proposal for the adjustment of these 826 COVID HR in various vacant posts under NHM on Outsourcing basis through HKRNL was sent to Hon'ble Health Minister Haryana, wherein it had been apprised to Hon'ble Health Minister Haryana that, 674 out of 826 COVID employees would be adjusted against the vacant posts under NHM Haryana through Outsourcing and 152 of different categories i.e., 136 DEO, 1 Radiographer, 13 Research Assistant & 2 ICU Technician would be left for adjustment.

On the proposal of NHM Haryana, Hon'ble Health Minister Haryana has desired that, "adjustment of remaining HR may also be made in the O/o DGHS against vacancies" and the Hon'ble Chief Minister, Haryana has approved the proposal subject to concurrence of FD.

Therefore, you are requested to communicate the possibility to adjust these trained staff in the Health Department through State Budget.

Mission Director,
National Health Mission,
Haryana, Panchkula.

3. In this factual background, learned counsel for the petitioners contended that there was no justification for the respondents to dispense with the petitioners' services as they had been appointed after due selection in accordance with law. All of the employees engaged during the pandemic have already been re-engaged, and there is no reason the petitioners should not be given the same benefit.

4. *Per contra*, learned counsel for the College contended that no sanctioned post of Research Scientist/Research Assistant was available with them. The petitioners were engaged only after sanction was granted by the second respondent for running VDRLs during the Covid-19 pandemic. The term of their contract has been extended from time to time as per directions by the said respondent only. As the things stand today, there is no testing of



suspected Covid-19 patients in the College since the pandemic is over. The petitioners are continuing in service only on the strength of interim orders passed by this Court despite there being no work for them. On account of their retention in service, the College is spending almost an amount of ₹3,55,000 per month, which is a drain on its resources. He also made a reference to letter dated 03.06.2022, Annexure A-1, received from the Directorate informing that services of the employees who were engaged during the pandemic, were not required any longer in the absence of any infected case. Accordingly, it is submitted that the College should be permitted to dispense with their services.

5. Learned State counsel is not in a position to dispute that the Government has permitted continuation of the employees engaged during the pandemic by issuing various letters/memorandums from time to time, including letters/memorandums dated 22.03.2022 and 28.07.2022. It could also not be disputed that in terms of memorandum dated 09.08.2023, all the contractual employees engaged during the pandemic have been adjusted against vacant posts under NHM or in the office of Director General, Health Services, through outsourcing. He further submitted that to fight the pandemic, the State Government granted permission to the State medical colleges, and the respondent College, to appoint trained medical personnel on contract basis for a period of three months vide letter dated 28.03.2020. The engagement was extended for a period of six months vide memorandum dated 07.07.2021. However, no posts of Research Scientist/Assistant could be created in the College as there was no time to get the same sanctioned from the Finance Department. Resultantly, the petitioners were engaged on contract basis against non-sanctioned posts, and such an engagement in the absence of



posts falls under Part-I Schedule of the Outsourcing Policy, 2015. Finally, he contended that it is for the respondent College to engage or relieve its employees as it is being run and managed by a private society, namely, Maharaja Agrasen Medical Education and Scientific Research Society. The State Government only provides grant-in-aid for all recurring and non-recurring expenditure to it.

6. The submissions made by learned counsel for the parties have been considered.

7. As apparent on record, trained medical personnel, including Research Scientists and Research Assistants, were engaged by the Government during the Covid-19 pandemic to deal with the situation. And the petitioners were specifically engaged for running VRDLs which were also set up to fight the virus. Although their initial appointment was on contract basis for a period of three months, it was extended from time to time. It remains a conceded fact on record that they have been engaged after following due process and on fulfilling the requisite qualifications, based upon recommendations of a selection committee. They have been continuously working ever since their initial appointment, and there has not been any adverse opinion about their work and conduct. They were not the only employees who were engaged following the directions by the Government during the pandemic; such contractual appointments were made all over the State in five State medical colleges, as detained in para 2 above, and also in the respondent College, which gets regular grant-in-aid from the Government for both recurring as well as non-recurring expenditure. Even after the pandemic is over, the contractual staff has been retained in service by the



Government through the Nigam/HKRNL; this is apparent from the letter/memorandums dated 22.03.2022 and 28.07.2022.

7.1. It is also apparent on record that the entire contractual staff which was engaged to fight the pandemic 24x7 under the orders of the Government, as aforementioned, was finally adjusted under the NHM through outsourcing or in the office of Director General, Health Services, against vacant posts; this is evident from the memorandum dated 09.08.2023. The NHM is an organisation managed and controlled by the Ministry of Health and Family Welfare, Government of India. The only remaining staff to be adjusted are the petitioners, and the only reason for not doing so is that they have been engaged by the respondent College, which is run by a private educational society. This is hardly a justification to deprive them of the benefit of adjustment, as has been extended to their counterparts who happen to be appointed in the Government run medical colleges. It is a fortuitous circumstance that they were engaged by a medical college run by a private educational society and not by any State-run medical college. The fact, however, remains that their appointments were under the orders of the Government for the purpose of running the laboratories crucial for fighting the pandemic. It also remains a fact that it is the State Government which is providing grant-in-aid to the College, despite it being managed by a private educational society. Accordingly, the Government cannot be allowed to wash its hands off and abdicate its responsibility to take care of the interests of the staff like the petitioners, who have been engaged under its orders in a medical college which is getting substantial financial support from it. This makes their status equivalent to that of the contractual staff engaged during the pandemic in State medical colleges. Evidently, the only distinction is the name of the college



they have been engaged in, since its nature essentially remains that of a Government college so far as meeting out the recurring as well as non-recurring expenditure is concerned. Accordingly, denial of adjustment to the petitioners under the NHM or in the office of Director General, Health Services, or in the medical college where they are working by providing the requisite grant-in-aid, is arbitrary and discriminatory against them. Not only that, it shows callous attitude of the Government in failing to protect the staff who helped it fight the pandemic and take care of the infected patients.

8. In view of the discussion, the petitions are allowed, and the impugned letter/memorandums, dated 28.01.2022 and 02.02.2022, are set aside to the extent the same limit the petitioners' engagement in service up to 31.03.2022. Respondents no.1 and 2 are directed to adjust them in the manner they have adjusted other contractual staff engaged during the pandemic under the NHM or in the office of Director General, Health Services, or in the respondent College where they are working by providing regular grant-in-aid for the purpose. And till the adjustment they shall continue in service on the existing terms. These directions are to be carried out within six weeks of receiving a certified copy of the judgment.

9. Pending miscellaneous application(s), if any, also stand(s) disposed of.

10. A photocopy of this order be placed on the case file(s) of connected matter(s).

(TRIBHUVAN DAHIYA)
JUDGE

29.05.2026
Maninder

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No