

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-31158-2024 (O&M)

Sumit Mandhan & Ors.

... Petitioners

VS.

State of Haryana & Ors.

... Respondents

1.	Judgment reserved on	10.04.2026
2.	Judgment pronounced on	20.05.2026
3.	Judgment uploaded on	22.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Ms. Sangita Dhanda, Advocate for the petitioners

Ms. Ruchi Sekhri, Addl. AG Haryana

Sandeep Moudgil, J.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, inter alia, for issuing a writ of certiorari quashing of the order dated 28.08.2024 (Annexure P13) passed by respondent No.3 whereby the petitioners have been denied employment and thus seeks a direction to the respondents to issue appointment letters to them to the post of Driver being among 826 COVID-HR employees, at par with other similarly situated employees in compliance with the order dated 04.04.2024/18.04.2024. A direction is also sought to restrain the respondents from filling up vacancies which were occupied by the petitioners by another set of contractual employees till the time regular appointments are made.

(2). The petitioners were engaged during the Covid-19 pandemic as Drivers in April, 2020 through an outsourcing agency under the National Health Mission, Haryana, against sanctioned posts in District Karnal. It is not

in dispute that the petitioners continuously worked till 31.03.2023 and thereafter their services came to an end along with other Covid-HR employees. It is further not disputed that the State Government thereafter took a policy decision for adjustment/re-engagement of relieved Covid-HR staff through Haryana Kaushal Rozgar Nigam Limited (HKRNL) and directions in this regard were issued vide communications dated 09.08.2023 and 13.10.2023.

(3). The grievance of the petitioners is that despite being similarly situated to other Covid-HR employees, who were adjusted pursuant to the aforesaid policy decision, the petitioners alone were denied such benefit vide impugned order dated 28.08.2024 (Annexure P13) primarily on the ground that their recommendations were not initially forwarded in time by the Civil Surgeon, Karnal and that their cases were not covered under the relaxation granted by the Government.

(4). Aggrieved thereby the present petition has been filed.

(5). Heard learned counsel for the parties and the judgment was kept reserved on 10.04.2026.

(6). The record placed before this Court, however, does not support the stand taken in the impugned order. A perusal of communication dated 07.11.2023 (Annexure P10) issued by the Civil Surgeon, Karnal – respondent No.5 clearly reveals that names of the petitioners were recommended for adjustment in terms of the Government policy and it was specifically mentioned therein that sanctioned posts of Drivers were available and there was an acute shortage of Drivers in the Department. Another communication dated 14.06.2024 (Annexure P11) was also addressed reiterating the requirement and recommending engagement of the petitioners. Therefore, the very foundation of

the impugned order, namely that recommendations were not forwarded in time, appears factually unsustainable.

(7). Even otherwise, assuming for the sake of argument that there was some 'delay' at the administrative level in processing or forwarding the recommendations, the petitioners cannot be made to suffer for lapses attributable to the respondent authorities themselves. It is a settled principle of law that a citizen cannot be penalized for inaction or delay on the part of the administration, particularly when no fault is attributable to such citizen.

(8). The respondents themselves admit that the petitioners had worked during the Covid-19 period under NHM and recommendations for their adjustment were subsequently sent. The respondents also do not dispute that similarly situated Covid-HR employees were extended benefit of the policy decision and adjusted through HKRNL. In such circumstances, exclusion of the petitioners alone, without any rational basis, clearly falls foul of Articles 14 and 16 of the Constitution of India.

(9). The plea sought to be raised by the respondents regarding distinction between Light Motor Vehicle Drivers and Heavy Motor Vehicle Drivers also does not inspire confidence. Firstly, such distinction does not appear to have formed the principal basis of rejection in the impugned order. Secondly, the Civil Surgeon, Karnal himself repeatedly sought adjustment of the petitioners against available Driver posts and highlighted continuing necessity of Drivers in the department. Thirdly, once the petitioners were treated as part of Covid-HR staff, for all practical purposes, and their names were recommended under the applicable policy framework, the respondents

could not arbitrarily exclude them while extending the same benefit to others similarly situated.

(10). At the same time, this Court is conscious of the settled position of law laid down by the Supreme Court in Secretary, State of Karnataka v. Umadevi, (2006) 4 SCC 1, that no direction for regularization or permanent absorption can ordinarily be issued contrary to statutory recruitment rules. However, the present case does not concern regularization. The petitioners seek parity of consideration under an existing policy decision already implemented in favour of other Covid-HR employees. Therefore, the embargo contained in Umadevi (supra) would not come in the way of granting relief against arbitrary and discriminatory exclusion.

(11). Further, the Supreme Court in State of Haryana v. Piara Singh (1992) 4 SCC 118 recognized that one set of ad hoc or temporary employees should ordinarily not be replaced by another set of temporary employees and that fairness in State action is an essential constitutional requirement. The action of the respondents in excluding the petitioners despite availability of work, existence of vacancies and extension of benefit to similarly situated employees cannot withstand the test of fairness and non-arbitrariness.

(12). The impugned order dated 28.08.2024 further suffers from non-application of mind. On one hand, the respondents acknowledge recommendations made by the Civil Surgeon, Karnal and continuing requirement of Drivers, while on the other hand the claim of the petitioners has been rejected on grounds which are neither consistent with the record nor supported by cogent reasons. The order, therefore, cannot be sustained in law.

(13). Accordingly, the present writ petition is allowed. The impugned order dated 28.08.2024 (Annexure P-13) is hereby quashed. Respondents are directed to consider and adjust/engage the petitioners through HKRNL against available sanctioned posts of Drivers under NHM, Haryana, in the same manner as other similarly situated Covid-HR employees have been granted such benefit pursuant to policy decisions dated 10.10.2023 and 18.10.2023, subject to fulfillment of requisite eligibility conditions. Necessary exercise in this regard be completed within a period of two weeks from the date of receipt of certified copy of this order.

(14). Therefore, this petition is allowed in the aforesaid terms.

(15). Pending application(s), if any, stands disposed of.

20.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No