



IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 18264 of 2026 along with
CWP No. 18266 of 2026.

Decided on : 15th October, 2026

1. CWP No. 18264 of 2026.

Archna Thakur

...Petitioner.

Versus

State of H.P. & Ors.

....Respondents.

2. CWP No. 18266 of 2026.

Haseena Kumari

...Petitioner.

Versus

State of H.P. & Ors.

....Respondents.

Coram:

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the Petitioners:

Mr. Devender K. Sharma, Advocate.

For the respondents:

Mr. Rajat Chaudhary, Assistant Advocate
General for respondents-State.

Mr. Sandeep Pandey, Advocate, for
respondent No.4.

Jyotsna Rewal Dua, Judge.

Involving common questions of law and facts, these two writ
petitions have been taken up together for disposal.

2. For convenience, facts hereafter have been taken from CWP

No. 18264/2026 (Archana Thakur vs. State of H.P. & Ors.).

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

2(i). Posts of Staff Nurse were advertised by the respondent-Health Department in accordance with the Recruitment and Promotion Rules holding the field. Petitioners participated in the selection process and got selected. They were appointed as Staff Nurses on contract basis on 19.05.2021. Their services were regularized on 10.11.2023. Respondent No. 3-Atal Medical and Research University, Himachal Pradesh, issued a prospectus on 16.07.2026 for admission in M.Sc. Nursing Course. Petitioners were interested in admission to the aforesaid course. Provisional No Objection Certificates were issued by the respondents in their favour on 23.07.2026 for participating in the selection process for pursuing higher study i.e. M.Sc. Nursing, as in-service candidates. Result of the selection process was declared by respondent No. 3 on 14.09.2026. Petitioners emerged successful. They also found merit in the counselling process amongst the in-service candidates. Seats were also accordingly allotted in their favour.

2(ii). Petitioners applied for fresh No Objection Certificate for pursuing higher studies as in-service candidates to the respondents on 26.09.2026. They also applied for study leave in terms of the rules holding the field through proper channel. The applications so preferred by the petitioners were processed in the offices of the respondents. Vide office

communication dated 03.10.2026, respondent No. 1 declined to grant No Objection Certificate to the petitioners. The office letter also declined to sanction study leave in petitioners' favour. Though, the same office communication granted No Objection and also accorded approval for grant of study leave in favour of eight other incumbents. The eight other incumbents are also stated to be Staff Nurses similarly situated as the present petitioners. In this regard copy of letter dated 29.09.2026 is taken on record. The office letter dated 03.10.2026 being relevant, is reproduced hereinafter:-

"From

The Secretary (Health) to the
Government of Himachal Pradesh.

To

The Director Health Services,
Himachal Pradesh, Shimla-09.
Dated Shimla-171002, 3rd October, 2026.

Subject: Regarding issuance of NOC for admission and
grant of Study leave for M.Sc/ B.Sc (Nursing) for
AMRU HP/SNGNC Shimla.

Sir,

I am directed to refer to your letter No. HFW-H(1)B(6)143/91-(Study leave)-7478 dated 29.09.2026, on the subject cited above and to convey 'No Objection Certificate' of the Government, with the prior approval of the Finance (Regulation) Department, for sanction of study leave in favour of Eight (8) incumbents (except Sr. No. 6 & 7 i.e. Smt. Archana Thakur & Smt. Haseena Kumari), subject to fulfilling the following conditions:-

1. Department may ensure that all eight (8) incumbents fulfil eligibility criteria/conditions as per CCS (Leave)

Rules, 1972 amended by the State Government from time to time.

2. Public interest is involved.
3. No work/ functions will suffer during their study leave period and no inconvenience is faced by the public.

You are, therefore, requested to take further necessary action accordingly.

Yours faithfully,

Sd/-

(Jitender Sanjta)

Special Secretary (Health) to the Government of Himachal Pradesh."

Feeling aggrieved, petitioners instituted these writ petitions.

3. Taking note of grievance of the petitioners, following order was passed in these writ petitions on 12.10.2026 (extracted hereinafter from CWP No. 18264/2026):

"Notice. Mr. Rajat Choudhary, learned Assistant Advocate General and Mr. Sandeep Pandey, learned counsel, accepts notice on behalf of respondents No.1 to 3 and 4, respectively.

2. Respondents declined grant of study leave to the petitioner under office communication dated 03.10.2026 (Annexure P-8). Though the said office communication does not throw any light as to the reasons for not granting study leave to the petitioner, learned counsel for the petitioner submits that petitioner was given to understand that the same has been declined on the ground of non-completion of five years of regular service by the petitioner, and that contractual service of the petitioner will not be counted for the purpose of grant of study leave.

3. Learned counsel for the petitioner pleads urgency since the petitioner has already successfully participated in the counselling a seat of M.Sc Nursing in respondent No. 4-College

stands allotted to the petitioner, and classes are scheduled to be held w.e.f. 21.10.2026.

4. As noticed earlier, the respondent has rejected the case of the petitioner for grant of study leave on the ground of non-completion of 5 years of regular service by her. Reference was made by learned counsel for the petitioner to the judgment in CWPOA No. 799/2020 (*Geetika Dharmani vs. State of H.P. and Others*), decided along with connected matter on 27.07.2023, wherein it has been held that contractual service is required to be taken into consideration for computing the total number of years of service for the purpose of grant of study leave. Relevant portion of the said decision reads as under:

"Consideration by the Court

18) As far as the 1st relief is concerned, that has already been granted by virtue of the interim order.

19) The question is:

"whether the petitioner is entitled to the relief of payment of salary and grant of study leave for the duration to pursue MD/MS Ayurveda Course?"

20) Learned counsel for the petitioner relied upon the Division Bench Judgment of this Court in CWP No. 6183 of 2022, titled as Sushant Singh Negi and others vs. Himachal Pradesh State Industrial Development Corporation Limited and another, decided on 07.12.2022, wherein, the Division Bench, after taking note of the Constitution Bench judgment of the Supreme Court in Direct Recruit Class-II Engineering Officers' Association versus State of Maharashtra and others, held that the petitioners therein though appointed on contract basis, since they had been appointed after following due selection process, and since their services were regularized subsequently, the service rendered by them on contract basis is liable to be treated at par with the ad hoc service, and the said contractual service should be added to the service rendered on contract basis to calculate their regular duration of service.

The Division Bench held that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

The Division Bench also relied upon the judgment of the Division Bench of this Court in Baldev Singh & Ors. vs. State of H.P. & Ors., wherein the Division Bench held that the appointees on contract basis are treated at par with the ad hoc appointees.

21) *Similar view was also taken in CWP No. 3841 of 2022, titled as Dr. Umesh Kumar vs. State of H.P. & Anr.*

In that case, the Division Bench held that the qualifying service of a Government Servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity if officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post; and since the initial appointment of the petitioner therein, though in temporary capacity, continued for about 10 years, and was followed without interruption by substantive appointment on the same post, it would entitle the contract service to be counted towards qualifying service for the purpose of pension as per CCS (Pension) Rules, 1972.

In that case, the Division Bench also relied upon the judgment in CWP No. 5400 of 2014, titled as Veena Devi vs. Himachal Pradesh State Electricity Board Ltd. & Anr., decided on 21.11.2014, where the High Court had held that the contract service followed by regular appointment was required to be counted for the purpose of pension.

22) *Though, the learned Additional Advocate General sought to contend that as per Clause 2/2.1*

(iii) & (vi), the petitioner cannot be said to be entitled to study leave as she had not rendered five years of 9 regular service, and that Rule 50(5)(i) also requires five years regular continuous service for entitlement to get study leave, we are of the opinion that if the contractual service of five years rendered by the petitioner from 12.03.2010 to 10.08.2015 is considered, in view of the decisions of this Court and that of the Supreme Court in the Direct Recruit Class-II Engineering Officers' Association, the petitioner cannot be denied study leave.

23) In our opinion, the respondents are not acting in accordance with law in denying to her the said study leave by quoting Paras 2.1 (iii),(vi) of the Prospectus or, 3 and 2, 6 and Rule 50(5) (i) of the CCS (Leave) Rules, 1972.

24) Accordingly, the writ petition is allowed and the respondents are directed to grant study leave to the petitioner for the period she underwent the MD/MS (Ayurveda) Course and also pay her salary for the said period. We also declare that the petitioner was entitled to pursue her MD/MS (Ayurveda) Course in the 5th respondent-College as in-service candidate as Ayurvedic Medical Officer."

5. In view of above, let learned Assistant Advocate General to have specific instructions/file reply on the grievance of the petitioner. Till the next date of hearing, the seat allotted to the petitioner vide Annexure P-6 shall not be allotted to any other candidate.

List on 15.10.2026."

3(i). Learned counsel for respondent No. 4 has submitted that in compliance with the aforesaid order, two seats in M.Sc. Nursing have been kept vacant.

3(ii). Learned Assistant Advocate General has placed on record office instructions dated 14.10.2026 from Director Health Services, Himachal Pradesh and submitted that aforesaid be treated as the stand of the respondents to this writ petition. The impugned communication dated 03.10.2026 does not give away any reason for rejecting the petitioner's request for issuance of No Objection Certificate as also grant of study leave for pursuing M.Sc. (Nursing) Course. In the office instructions dated 14.10.2026, the gist of the stand of the respondents is that; (i) Grant of study leave is governed by the Central Civil Services (Leave) Rules, 1972, more particularly Rule 50 thereof that falls under Chapter VI; Study leave may be granted but subject to conditions with due regard to be given to the exigencies of public service to enable an employee to undergo a special course of study/higher studies or specialized training in a professional or a technical subject having a direct and close connection with the sphere of his duties. (ii) *Geetika Dharmani*² (quoted in the order dated 12.10.2026 passed in these writ petitions) is not applicable to the facts of the case. Petitioners are not similarly situated to *Geetika Dharmani*². The petitioners therein were working as Ayurvedic Medical Officers and had claimed study leave for undergoing post-graduate

²CWPOA No. 799 of 2020, decided along with connected matter on 27.07.2023.

degree in Ayurveda (MD/MS). The courses for which the study leave was being sought by the petitioners in *Geetika Dharmani*² had direct and close connection with the sphere of their duties in capacities of Ayurvedic Medical Officers; (iii) Rule 50 of CCS Leave Rules also provides that a Medical Officer may be granted study leave for pursuing a course of post-graduate study if the Director General of Health Services certifies to the effect that such study shall be valuable in increasing the efficiency of such Medical Officer in the performance of duties. The petitioners in the capacity of Staff Nurses cannot equate themselves with the Medical Officers.

The above is the sum total of the stand of the respondents.

4. Consideration.

4(i). The respondents have not disputed about petitioners' factual eligibility for grant of study leave i.e. they having completed five years of service (including regular and contractual) are eligible to be considered for grant of study leave. To this an effect, *Geetika Dharmani* also holds in favour of petitioners. It has already been observed in order dated 12.10.2026 passed in these writ petitions that in terms of *Geetika Dharmani*, contractual service rendered by the petitioners is required to be

taken into consideration for computing total number of years of service for the purpose of grant of study leave required under Rule 50 of CCS Leave Rules.

It would also be relevant to take note of ***Shailja Sharma and another vs. State of H.P. & Ors.***³. In the said case, the petitioners were Staff Nurses and were claiming study leave for the purpose of pursuing M.Sc. Nursing course. The respondents had rejected the prayers of the petitioners therein on the ground of their having not to their credit five years of regular service. The contention was turned down after taking note of not only *Geetika Dharmani*, but also after examining the relevant rule position, including the rules governing admission to M.Sc. course framed by Atal University, respondent No. 3.

Since the respondents have not disputed the eligibility of the petitioners for grant of study leave, therefore, that aspect does not require any further consideration.

4(ii). According to the respondents, petitioners as Staff Nurses cannot equate themselves with Medical Officers; that they cannot be allowed study leave as in-service candidates for pursuing post-graduation course. The aforesaid stand is highly discriminatory. In case a Medical

³CWP No. 15873 of 2025, decided along with connected matter on 11.12.2025.

Officer can be granted study leave for pursuing a post-graduate degree/course as an in-service candidate, it defies logic as to why a nurse cannot be granted study leave for undertaking post-graduate course in Nursing. If, according to the respondents, a post-graduate degree obtained by Medical Officers will advance public interest in discharge of their duties, the same analogy would also hold good for the post-graduate degree obtained by Nurses. The respondent, as welfare State, could not have discriminated between the Medical Officers and Staff Nurses for grant of study leave to them as in-service candidates for pursuing post-graduate degree/courses, that too in their own streams. Further, admittedly the impugned decision contained in office communication dated 03.10.2026 itself records that eight Staff Nurses have been granted study leave for pursuing M.Sc. Nursing courses. That being the position, denial of study leave to the petitioners for the same course is beyond comprehension. It cannot be the approach of the respondents that different law will be applicable to different persons otherwise similarly situated in every manner.

5. For the foregoing reasons, this writ petition is allowed. The impugned decision contained in Annexure P-8 dated 03.10.2026 is quashed and set aside. Respondents are directed to grant No Objection

Certificate as also study leave to the petitioners as in-service candidates for pursuing M.Sc. Nursing course, session 2026-2027 from respondent No. 3 University. All codal formalities in this regard be completed within one week i.e. on or before 22.10.2026.

Jyotsna Rewal Dua
Judge

15th October, 2026.
(jai)