

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9235 of 2025
Date of Decision: 17.06.2025

Dr. Pankaj Sharma

.....Petitioner

Versus

State of Himachal Pradesh & Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? Yes.

For the Petitioner: Mr. Dilip Sharma, Senior Advocate, with Mr. Manish Sharma, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General, Mr. Rajan Kahol & Mr. B.C. Verma, Additional Advocate Generals with Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. *(Oral)*

Petitioner herein, who at present is posted as Tutor Specialist/Senior Resident, Radiotherapy, Pt. Jawahar Lal Nehru Government Medical College, Chamba, Himachal Pradesh, (in short "PJLNGMC" is aggrieved by order dated 26.05.2025 (Annexure P-5), whereby his request to grant NOC for DNB course has been rejected.

2. For having bird's eye view, facts relevant for adjudication of the case at hand are that on 18.06.2016 petitioner after completion of his MBBS Degree came to be appointed as Medical Officer on contract basis in the respondent-department. However, on 20.11.2019, he was regularized as Medical Officer. In the year 2020, petitioner came to be selected for Post Graduation Course in Radiation

Oncology/ Radiotherapy at IGMC, Shimla, against in-service quota. While taking admission in afore course petitioner furnished bond undertaking therein to complete four years mandatory service after competition of Post Graduation Course. At the time of furnishing bond, as detailed hereinabove, he also submitted his MBBS Degree and undated cheques amounting to Rs.40,00,000/-. After declaration of result of PG Course, respondent-State gave posting to the petitioner as a Medical Officer in PJLNGMC&H, Chamba and he worked in afore capacity w.e.f 12.09.2023 till 04.12.2023 (94days). After having served aforesaid institution at Chamba, petitioner was subsequently appointed as Senior Resident at YSPGMC&H Nahan, but after some time he was again posted at PJLNGMC&H, Chamba as Senior Resident where he is working till date. In total petitioner has been working in the respondent-department for more than one year and nine months. After his having completed the Post Graduation Course in the month of January, 2024, petitioner applied for NEET Super Speciality Entrance Examination, which was held on 29.03.2025. In the month of April, 2025, result of the aforesaid examination was declared, wherein petitioner was selected.

3. Vide Provisional Allotment Letter dated 20.05.2025 (*Annexure P-4*) petitioner came to be allotted All India quota seat for DNB SS Medical Oncology in first round of Counselling. On

24.05.2025, petitioner submitted representation to respondent No. 2 through proper channel for grant of NOC/Sponsorship for pursuing three years DNB SS Medical Oncology Course. However, vide letter dated 26.05.2025 (*Annexure P-6*), respondent No. 2 rejected the representation for grant of NOC/Sponsorship for DNB SS Course on the ground that he has not completed mandatory field posting of one year after completion of Post Graduation Course. On 30.05.2025, petitioner submitted resignation, stating therein that even though he is willing to come back to State of Himachal Pradesh after completion of his Super Specialty Course and is ready to serve for the remaining bond period and even thereafter, but in view of rejection of his claim, he has been left with no alternative except to tender his unconditional resignation from the service.

4. In nutshell, petitioner claimed that with the allotment of seat, he has got one life time opportunity, which he cannot miss, rather his securing seat would help State of Himachal Pradesh in times to come. Since nothing favourable was heard from the respondents, petitioner approached this Court in the instant proceedings, praying therein for the following main reliefs:

“(i) That the impugned rejection of the claim of petitioner for grant of NOC in his favour vide Annexure P-6 dated 26.5.2025, for pursuing DNBSS Medical Oncology Course, may be quashed and set aside;

(ii) *The respondent authorities be directed to issue No Objection Certificates (NOC) to the petitioner in terms of amended clause 6.5 of the PG/SS Policy notified vide Annexure P-3 dated 14.10.2022 for pursuing DNB SS Medical Oncology Course;*

(iii) *That, in the alternative, the respondent authorities may be directed to accept his resignation and release the petitioner from his bond upon deposit of bond amount on pro rata basis;*

(iv) *That the respondent No. 3 may be directed to release the original MBBS degree to the petitioner."*

5. Having taken note of peculiar facts and circumstances and urgency, this Court passed order dated 03.06.2025, which reads as under:-

"Petitioner herein is aggrieved by order dated 26.05.2025, issued under the signatures of Director, Health Services, Himachal Pradesh, whereby prayer made his behalf for grant of NOC for DNB Course has been denied on the ground that he has not completed mandatory field posting of one year.

While fairly admitting that petitioner herein is yet to complete his bond period of four years, Mr. Dilip Sharma, learned Senior Counsel for the petitioner, on instructions, states that though petitioner is ready and willing to complete his bond period of four years, but since with great difficulty, he has been able to get seat in Medical Oncology at Paras Hospital, Punjab, he may be permitted at this stage to join afore institution subject to his furnishing bond money and undertaking to the effect that after his having completed DNB Course, he will join the State of Himachal Pradesh and complete remaining bond period. Mr. Sharma, further states that though petitioner has tendered unconditional resignation, enabling him to join Paras Hospital, but he shall withdraw the same in case permission is granted to the petitioner subject to final outcome of the present petition.

Learned Advocate General prays for and is granted two days to have instructions.

List on 06.06.2025.”

6. Pursuant to afore order, Mr. B.C.Verma, learned Additional Advocate General placed on record instructions dated 04.06.2025 issued under the signatures of Director, Health Services, but since same did not answer the specific query raised by this Court, while passing order dated 03.06.2025, this Court called upon learned Additional Advocate General to have instructions/ file short reply.

7. Vide aforesaid order, this Court specifically ordered that while doing the needful in terms of this order, respondents shall take note of the fact that the petitioner has already completed Senior Residency and is willing to serve the State by completing his bond period, after doing Super Specialty Course and to deposit the bond money.

8. Pursuant to aforesaid order, respondent-State has made available instructions dated 16.06.2025 issued under the signatures of Director Health Services, Himachal Pradesh, wherein it has been reiterated that after completion of his PG Course, he has only completed 94 days (three months and four days) period out of one year mandatory field posting, and a period of eight months and 26 days of mandatory field posting is still pending to be completed by the petitioner including the other requisite bonded service of four years. If

the aforesaid communication is perused in its entirety, respondents have not acceded to request of the petitioner, as detailed hereinabove.

9. True it is that petitioner at the time of taking admission in PG course had furnished bond, thereby undertaking to serve the State of Himachal Pradesh for four years after his having completed PG Course. It is not in dispute that though after his having completed PG course, petitioner was given posting by the respondents-State at DHS where he worked for 39 days and thereafter, he was sent as MO Specialist to PJLNGMC&H, Chamba, where he worked for 55 days. It is also not in dispute that subsequently respondents themselves sent petitioner to YSPGMC&H, where he was permitted to work for 52 days. Again pursuant to orders passed by the respondents, petitioner joined back at PJLNGMC&H, Chamba on 07.05.2025 and till date he has been working there as Tutor Specialist/Senior Resident.

10. Though it has been vehemently argued by Mr. Anup Rattan, learned Advocate General, that petitioner has not completed one year mandatory field posting, but having carefully perused amended PG Policy dated 24.12.2021, this Court is persuaded to agree with learned Senior Counsel that requirement of one year field posting “Senior Resident was exempted for new Government Medical Colleges/Institutions.” Clause 7.3.5 of afore Policy reads as under:-

“The GDOs/ Direct Candidates who have furnished bond to serve the State after Post Graduation in lieu of sponsorship shall be required to

serve a period of minimum one year. In field posting before being eligible for Senior Residency in IGMCM Shimla and Dr. RPGMC Tanda and for this purpose the last date of submission of application by the candidate shall be taken as the cut-off date. However, this condition shall not be applicable to the direct candidates who have not availed sponsorship of the State while doing Post Graduation and who are not bound by conditions of any bond. However, this condition shall not be applicable for new Government Medical Colleges/Institutions of the State.”

11. Clause 7.3.7 provides that Medical Officers/ direct candidates after completion of their Post Graduation posted in new Government Medical Colleges/Institutions against the vacant posts of Senior Resident/ Tutor Specialist may be clubbed with Senior Resident/ Tutor Specialist, however, this period will not be counted as “Teaching Experience”, but counted for one year mandatory field posting. Since respondents themselves, before completion of PG Course by the petitioner, gave posting to the petitioner at DHS and thereafter PNLNGMC&H, Chamba and for approximately one year and nine months, petitioner remained posted in PNLNGMC&H, Chamba as well as YSPGMC&H, Nahan, it cannot be said that he has not completed one year mandatory field posting. Since issue with regard to validity of amended Policy dated 24.12.2021 is already pending adjudication in LPA No. 64 of 2024, it may not be appropriate for this Court to return the finding qua the validity of the same, rather finding/observation, if any, given in earlier part of the judgment is

only to counter the submission made by learned Advocate General, especially when, it is not in dispute that afore provision contained in mandatory PG Course Policy dated 27.02.2019 has been upheld by the learned Single Judge.

12. At this stage, Mr. Anup Rattan, learned Advocate General, apprised this Court that Policy of 2019 was modified, vide notification dated 06.11.2024, wherein filed posting specifically came to be defined and same does not include Senior Residency. At this stage, it is pertinent to take note of the fact that petitioner herein is not seeking sponsorship, rather he being direct candidate intends to do Super Specialty Course under All India Quota on his own expense. Since with lot of hard work petitioner has been able to secure place in All India merit list for doing Super Specialty Medical Oncology, he made a request to the respondents to give him NOC, enabling him to join the course subject to his depositing bond money and furnishing undertaking that after completion of course he shall not only complete his bond period of PG Course but shall also work in State of Himachal Pradesh as Super Specialist. However, as has been taken note hereinabove, aforesaid request has not been accepted by the respondents.

13. Faced with aforesaid situation, learned Senior Counsel for the petitioner, on instructions of the petitioner, stated before this

Court that though petitioner is ready and willing to come back and join State of Himachal Pradesh after his having completed Super Specialty, but in case such proposal is not acceptable to the State of Himachal Pradesh, a direction may be issued to the respondents to accept his resignation subject to deposit of bond money i.e. Rs.40,00,000/- so that he is able to join Super Specialty course on or before stipulated date.

14. Mr. Anup Rattan, learned Advocate General, while responding to aforesaid proposals given at the behest of the petitioner, vehemently argued that there is acute shortage of doctors in the State of Himachal Pradesh and as such, prayer made on behalf of the petitioner cannot be accepted. He submitted that it may not be in the interest of public at large to permit petitioner to join Super Specialty Course that too without his completing bond period. He submitted that once petitioner has furnished bond, thereby undertaking to serve the State of Himachal Pradesh for four years after completion of PG Course, he cannot be granted NOC, enabling him to join Super Specialty Course. He further submitted that any concession in this regard by the State would not only set a bad precedent but would also encourage other doctors to follow the same suit, as a result thereof, public at large would suffer. However, Mr. Anup Rattan, learned Advocate General, was unable to dispute that in case petitioner is

unwilling to work and he is ready to deposit bond money, respondent-State cannot compel him to work against his wishes.

15. No doubt, in terms of bond furnished by the petitioner, he is bound to serve the State of Himachal Pradesh for four years after his completing PG Course but bond condition also provides that in case petitioner or person responsible for executing the bound fails to serve the State of Himachal Pradesh for prescribed period, bond money shall be forfeited, which otherwise stands deposited by way of undated cheques. Meaning thereby, bond though makes it mandatory for bond executant to serve the State of Himachal Pradesh for four years, but in case he/she fails to do so, bond money deposited in the shape of undated cheques can be forfeited. In the case at hand, petitioner has given two options. He, while making offer to deposit Rs.40,00,000/- has agreed to come back to the State of Himachal Pradesh after completion of Super Specialty Course for joining services or in alternative, he has prayed that his resignation may be accepted and sum of Rs.40,00,000/- agreed to be deposited by him may be forfeited. No doubt, this Court cannot lose sight of the fact that there is a shortage of doctors in State of Himachal Pradesh but that cannot be sole ground to stop progression of individual who after his having PG course wants to do Super Specialty that too at his own expense. Petitioner herein has already served State of Himachal Pradesh for one

year and nine months after his having completed PG Course, meaning thereby, he has still left to serve the State of Himachal Pradesh for two years under bond, which he is ready and willing to do after completion of Super Specialty but as has been observed hereinabove, aforesaid proposal is not acceptable to the State of Himachal Pradesh. In that eventuality, second proposal given by the petitioner with regard to acceptance of his unconditional resignation otherwise cannot be turned down by the State of Himachal Pradesh on the ground that there is shortage of doctors. Needless to say, once bond money is deposited, person concerned cannot be compelled to work against his wishes.

16. In similar facts and circumstances, Division Bench of this Court in LPA No. 450 of 2024 titled Ajay Kumar Chauhan v. State of Himachal Pradesh, rejected the plea of shortage of staff and directed the respondents to accept the resignation forthwith. It would be apt to take note of following paras:-

“8. On 17.12.2024, Co-ordinate Division Bench had observed as under:-

“The resignation tendered by the appellant has been rejected by the State Government on the ground that there is an acute shortage of Medical Officers (Specialists) in the State. However, we find that the same by itself cannot be a reason enough which can bind an unwilling employee to serve the State. Therefore, the respondent-State to explain its stand on the next date of hearing.”

9. Thereafter, the applicant/appellant has filed this application on 26.12.2024 with the submission that his resignation be accepted as a unconditional resignation, as he is unwilling to serve with the present employer as he has been offered appointment in AIIMS Bilaspur and he wants to excel his career in future.

10. In view of this application, learned Additional Advocate General was directed to have instructions in this regard.

11. Today, learned Additional Advocate General has expressed his inability to have instructions because of closure of offices on account of death of Ex-Prime Minister Dr. Manmohan Singh.

12. Learned Counsel for appellant has submitted that yesterday offices were open and delay in adjudication of matter would hamper his future causing irreparable loss to him as AIIMS Authority may withdraw the offer of appointment.

13. In the aforesaid facts and circumstances, this application is taken for consideration and considering the averments made in application and the submissions made on behalf of parties, the applicant/appellant is permitted and directed to submit his unconditional resignation to the Principal Secretary (Health) to the Government of Himachal Pradesh, on or before 30.12.2024 and in such eventuality, such resignation shall be accepted by the concerned Authority on the very same day, subject to final outcome of present appeal and thereafter, applicant/appellant shall be at liberty to join in AIIMS Bilaspur or wherever he intends to join."

17. In the aforesaid Order, Hon'ble Division Bench has categorically held that in case an employee is not willing to serve the department, he cannot be forced to do so.

18. Yet in another case, Hon'ble Division Bench of this Court vide order dated 9.1.2025, in LPA No. 25 of 2025, titled **Dr. Trilok Chand v. Union of India and Anr.**, has deprecated the action of the

respondents in denying NOC to the petitioner therein, who wanted to apply for post of Assistant Professor ENT in AIIMS Bilaspur. In the aforesaid case, Division Bench of this Court categorically ruled that shortfall of vacancy cannot be a valid ground for the State to deny NOC.

19. Following the aforesaid judgments passed by Hon'ble Division Bench of this Court, this Court in CWP No. 4319 of 2025 titled as ***Deepanshu Dhiman Vs. State of Himachal Pradesh*** ordered that resignation tendered by the petitioner (Deepanshu Dhiman) shall be deemed to have been accepted. Aforesaid judgment passed by this Court has already been implemented as is evident from dated 01.04.2025 passed by this Court in afore case, wherein learned Additional Advocate General has placed on record communication dated 01.04.2025 issued under the signatures of Deputy Secretary (Health) to the Government of Himachal Pradesh suggestive of the fact that petitioner herein has been relieved from her duties on her technical resignation from the regular post of Assistant Professor, Department of Anaesthesia, Dr. YSPGMC, Nahan. In another case titled as ***State of Himachal Pradesh and others Vs. Lovdeep Singh and others***, in LPA No. 70 of 2024, Hon'ble Division Bench of this Court ordered release of No Objection Certificate as well as original documents/certificates for those of the doctors, who have deposited

the bond amount of Rs.40,00,000/- each in terms of Policy. In the aforesaid judgment, Hon'ble Division Bench of this Court held that the respondents (doctors) are not slaves, they are only required to serve the State in case they are willing to abide by the bond. Once the respondents have opted for depositing the bond amount then, the State essentially has no authority whatsoever to withhold the No Objection Certificate as well as the original documents/certificates of those of the respondents.

20. Though in the case at hand, respondents, despite sufficient opportunities, has failed to accept the first offer give by the petitioner, but in large public interest, this Court is of the view that in case his first offer i.e. deposit of Rs.40,00,000/- with further undertaking that after completion of Super Specialty Course, petitioner shall not only join State of Himachal Pradesh as Super Specialist but would also complete his remaining bond period of PG Course, no prejudice shall be caused to the respondents rather public at large would be benefited at later stage. Petitioner, who has come present in Court, undertakes before this Court that in case NOC, as prayed for, is granted to him, he shall not only deposit Rs.40,00,000/- within a period of one week, but would also serve the State of Himachal Pradesh as Super Specialist after his having completed Super Specialty Course from the institution concerned for five years in

lieu of the remaining bond period and he further will avail extra ordinary leave without pay for the duration of course, failing which, the afore bond amount shall stand forfeited by the respondents-State. He further states that he will not claim any interest upon the bond amount, which would become refundable to him after serving the remaining bond period. His statement to this effect is taken on record. He has been apprised of the fact that in case he fails to honour the undertaking given before this Court, he would not only render himself liable for penal consequences but would also invite contempt proceeding and in addition to afore bond money deposited by him shall also be forfeited, which otherwise in the event of his joining back shall be returned to him after completion of bond period but without interest.

21. Consequently, in view of detailed discussion as well as law taken note hereinabove, this Court finds merit in the present petition and accordingly, the same is allowed. Impugned Order dated 26.05.2025 (Annexure P-6) is quashed and set aside. Respondents are directed to issue No Objection Certificate as well as Original MBBS Degree by **12:00 noon tomorrow (18.06.2025)**, enabling him to join Super Specialty Course in the institution concerned subject to his furnishing amount of Rs. 40,00,000/- within a period of one week in the bank account of the Director Health Services, details wherein shall

be furnished by the respondents to the petitioner and furnishing copy of undertaking given to this Court. Pending applications, if any, stand disposed of.

June 17, 2025
(sunil)

(Sandeep Sharma),
Judge

CWP No. 9235 of 2025

Statement of Dr. Pankaj Sharma, S/o Sh. Mitter Dev, R/o Bhagwati Clinic, Main Bazaar Karsog, Tehsil Karsog, District Mandi, Himachal Pradesh. Age 34 years.

On oath
17.06.2025

Stated that I have come present in Court today of my own volition and without any external pressure. Stated that in case NOC is granted to me, I undertake to deposit Rs.40,00,000/- within a period of one week and further to serve the State of Himachal Pradesh as Super Specialist after completion of Super Specialty Course from the institution concerned for five years in lieu of the remaining bond period and avail extra ordinary leave without pay for the duration of course, failing which, aforesaid bond amount can be forfeited by the respondents-State and I shall render myself liable for penal consequences as well as contempt proceedings. Further I will not claim any interest upon the bond amount, which would be refunded to me after serving the remaining bond period.

R.O.&.A.C.

June 17, 2025
sunil

(Sandeep Sharma),
Judge