
(2025) 04 J&K CK 0391
In the Jammu And Kashmir High Court
Case No : LPA No. 76 Of 2025

Gurmeet Kumar and Others

APPELLANT

Vs

UT of J&K and another

RESPONDENT

Date of Decision : 22-04-2025

Acts Referred:

Citation : (2025) 04 J&K CK 0391

Hon'ble Judges : Arun Palli, CJ;Rajnish Oswal, J

Bench : Division Bench

Advocate : Navyug Sethi, Raman Sharma

Final Decision : Dismissed

Judgement

Arun Palli, CJ

1. By virtue of Government order No.398-JK(HME) of 2021 dated 18.05.2021, sanction was accorded for the establishment of two 500 bedded Temporary Covid Hospitals, one each at Jammu and Srinagar in collaboration with the Defence Research and Development Organization (DRDO), Ministry of Defence, Government of India. 683 posts each were created to operationalize the aforesaid hospitals. In terms of various advertisement notices issued by the respondents for filling up the posts of Medical Officers, Pharmacists, and Lab. Technician, X-ray Technician, Junior Staff Nurse etc. in the newly created 500 bedded Covid Hospital, Jammu, the appellants came to be selected/engaged as such and they performed their duties during Covid-19 pandemic. The respondent No. 1 issued a Government order dated 02.03.2022, whereby all the Doctors deployed in these two Temporary Covid-19 hospitals, one each at Jammu and Srinagar, were repatriated to their original place of postings for further duties. Simultaneously, the Principals of the both Medical Colleges, Srinagar/Jammu were directed to review the requirement of continuance or otherwise of all the contractual/outsourced staff for taking future course of action. The respondent No. 2 vide communication dated 29.08.2022 requested the respondent No. 1 for

extension of tenure of contractual Doctors/Paramedics of the DRDO Covid Care Hospitals, Jammu by another one year. The respondent No. 1 vide order dated 03.10.2022 conveyed the approval of Administrative Department for grant of extension in the tenure of engagement of the staff (Nursing and Paramedical Staff) working in the Covid-19 Hospital, Bhagwati Nagar, Jammu till 31.12.2022, which as per the appellants was not in consonance with the Government order dated 18.05.2021, which provided that the tenure shall be extended for a period of one year at a time, for a period of three years in total, including initial engagement of one year. The respondent No. 2 convened a meeting of Superintendents of all the Associated Hospitals, wherein a decision was taken to grant extension to the tenure of the appellants for another period of one and half years and consequently a request was made by respondent No. 2 to the respondent No. 1 for extension of tenure of the appellants till May, 2024. Thereafter, another communication dated 12.04.2023 was made by the respondent No. 2 to the respondent No. 1 with a similar request, however, respondent No. 1 vide communication dated 13.04.2023 intimated respondent No. 2 and her counterpart at Srinagar that in view of the closure of DRDO Covid Hospitals at Jammu and Srinagar, there is no justification to extend the tenure of the staff engaged in DRDO hospitals and accordingly, the respondent No. 2 and her counterparts at Srinagar were advised to take immediate appropriate measures in the matter in terms of Government order dated 18.05.2021 and clarify as to how the staff was working with effect from 01.01.2023 without any formal orders from the Administrative Department.

2. Communication/order dated 13.04.2023 was endorsed to all HODs/ Administrators/ Medical Superintendents by the respondent No. 2 vide endorsement dated 19.04.2023. Appellants being aggrieved by the endorsement dated 19.04.2023 made by the respondent No. 2 on the communication/order dated 13.04.2023, issued by the respondent No. 1 filed WP(C) No. 1151/2023, whereby the appellants sought quashing of the endorsement dated 19.04.2023 made by the respondent No. 2 on the communication dated 13.04.2023 issued by the respondent No. 1 and also sought relief of mandamus commanding the respondents to allow them to continue their services on contractual basis till May, 2024.

3. The learned writ court vide judgment dated 10.03.2025, after hearing the parties, dismissed the writ petition with an observation that appointment/ engagement of the writ petitioners, i.e. appellants herein, was made purely on contractual basis to meet the urgent need arising due to Covid-19 pandemic and due to closure of Temporary Covid-19 Hospitals, the relief sought by the petitioners cannot be granted.

4. It is this judgment, that has been impugned by the appellants in this intra-court appeal on the ground that though the appellants were engaged on contractual basis but the period of their engagement was three years and the respondents without completion of period of three years, could not have

disengaged them.

5. Heard and considered.

6. A perusal of the Government order dated 18.05.2021, whereby 683 posts each were created for two hospitals at Jammu and Srinagar, reveals that the posts of Nursing and Paramedical/Technical staff were required to be filled on contractual basis for a period of one year, extendable for further period of two years, one year at a time, subject to requirement. It has been specifically mentioned in the said order that the tenure beyond one year can be extended subject to requirement. The textural tone and tenor of order dated 18.05.2021 reveals that the life of the posts was coterminous with the requirement/need to tackle the emergent situation arisen due to Covid-19 pandemic.

7. The parties have admitted the closure of Temporary Covid Hospitals. In terms of order dated 18.05.2021, continuance of the engagements beyond one year was subject to requirement and once the Temporary Covid-19 Hospitals have been closed, the appellant cannot claim that their tenure was required to be extended till May, 2024.

8. A perusal of the judgment impugned in this intra-court appeal reveals that the learned Writ Court has rightly considered the controversy and has arrived at a correct conclusion that once the Government has decided to close the Temporary Covid-19 Hospitals established in view of emergency related to Covid-19 pandemic, where the appellants were contractually engaged, the respondents cannot be asked to continue their services as contractual employees.

9. The learned writ court, though has dismissed the writ petition, but has directed the respondents to release the wages of the appellants for the period they have worked, provided there is no other legal impediment. The opinion formed by the learned writ court is unexceptionable and as such, we do not find any reason to show indulgence. Accordingly, this appeal is disposed of by directing the respondents to strictly comply with the direction issued by the learned Writ Court so far as it pertains to release of wages of the appellants in the manner as directed by the learned writ court.