

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18430 of 2015

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1. Dr. Kumar Ashutosh s/o Shri Ram Naresh Singh, resident of Village Mahesh Chapra, PO Sikati (Bhikham) PS Mashrakh Distt. Saran (Chapra), presently working as Dental Officer in ECHS Polyclinic at Chapra
 2. Rajeev Kumar Singh S/o Late Brahmdeo Narain Singh, Vill Karinga Mushehari, PO Magaidih, PS Chapra Mufasil, Distt. Saran (Chapra), Presently posted as peon, ECHS Polyclinic at Chapra

.... Petitioner/s

Versus

1. The Union of India through the Secretary Ministry of Defence, Govt. of India, New Delhi
2. The Ex-Servicemen Contributory Health Scheme (ECHS) Adjutant General's Branch Army HQ, Maud Lines, Delhi Cantt. 110010
3. The Ex-Servicemen Contributory Health Scheme (ECHS), Regional Center, Danapur, Patna
4. The Brigadier cum Station Commander, Ex-Servicemen Contributory Health Scheme (ECHS), Danapur, Patna
5. Lt. Col. Addl. Officer, at Station Commander, Regional Center, Danapur, Patna
6. Dr Sweta Singh c/o Dr B.K.Singh, Payal Nursing Home Isualpur, PS Isualpur, Saran
7. Ex.Nk.Amar Pandit S/o not known Vill. Rewari Ke Mathya, PO Rewari, Distt Chapra

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 15849 of 2015

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1. Chandan Kumar Thakur Son of Shri Ashok Kumar Thakur, resident of vill & P.O.- Bangra P.S. Sharghat, District- Madhubani

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Defence, Govt. of India, New Delhi
2. The Ex-Servicemen Contributory Health Scheme, Regional Centre, Danapur Cantt., Patna
3. The Ex-Servicemen Contributory Health Scheme, Polyclinic, DMCH, Darbhanga

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16504 of 2015

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1. Dr Pratibha Kumari wife of Dr. Rajeev Kumar resident of C/o Indramani Singh, Madan Ji Ka Hata, Pakri Raod, Ara (Bihar).

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
2. The Joint Director (East), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
3. Joint Director (A & AM), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
4. The ECHS Polyclinic, Ara represented through Officer in Charge, Ara, Bhojpur, Katira-Ara, District- Bhojpur, Bihar, Pin-802301.
5. The ECHS polyclinic Danapur represented by Officer-In-charge, Danapur, C/o MH Danapur Cantt, Pin-801503.
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin- 900441.
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16513 of 2015

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1. Harendra Choudhary @ H. Choudhary son of R.D. Choudhary, R/O- Village- Gayanpura, PO- Kawara, P.S.- Jagdishpur, District- Bhojpur (Bihar)

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, null Regional Centre ECHS-Patna, C/o- HQ J & B, Pin- 900441
2. The Joint Director (East.), Regional Centre ECHS-Patna, C/o- HQ J & B, Pin- 900441
3. Joint Director (A & AM), Regional Centre ECHS-Patna, C/o- HQ J & B, Pin- 900441
4. The ECHS Polyclinic, Ara represented through Officer In Charge, Ara Bhojpur, Katira- Ara, District- Bhojpur- Bihar Pin- 802301
5. The ECHS Polyclinic, Danapur represented by Officer-In-Charge, Danapur, C/o MH Danapur, Danapur Cantt, Pin- 801503
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt., Pin- 900441
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16407 of 2015

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1. S. K. Mishra Son of Sri B. Mishra Resident of Village+P.O.-Chechar, P.S.- Bidupur, District-Vaishali (Bihar).

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional

Centre ECHS-Patna,C/o SQ J & B, Pin-900441

2. The Joint Director (East), Regional Centre ECHS-Patna, C/o HQ J & B, Pin-900441

3. Joint Director (A & AM), Regional Centre ECHS, Patna, C/o HQ J & B, Pin-900441

4. The ECHS Polyclinic, Ara represented through Officer in Charge, Ara, Bhojpur Katiar Ara, District-Bhojpur Bihar Pin-802301

5. The ECHS Polyclinic, Ara represented through Officer in Charge, Danapur C/o MH Danapur, Danapur Cantt, Pin-801503

6. The State HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin-900441

7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District-Patna, Bihar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16279 of 2015

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1. Apurb Ravi son of Sri Dinesh Singh Yadav resident of village - Mahendru, P.O. - Mahendru, P.S. - Pirbahore, District - Patna.

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Office ECHS - Patna, C/o - HQ J & B, Pin - 900441.

2. The Joint Director (East.), Regional Centre ECHS - Patna, C/o - HQ J & B, Pin - 900441.

3. Joint Director (A & AM), Regional Centre ECHS - Patna, C/o - HQ J & B, Pin - 900441.

4. The ECHS Polyclinic, Ara represented through Officer In Charge, Ara, Bhojpur, Katira - Ara, District - Bhojpur, Bihar Pin - 802301.

5. The ECHS Polychlinic Danapur represented by Officer-In-Charge, Danapur, C/o MH Danapur , Danapur Cantt, Pin - 801503.

6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt., Pin - 900441.

7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District - Patna, Bihar.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 16715 of 2015

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1. Dharendra Kumar Singh @ D. K. Singh, S/o Pati Nath Singh R/o Village+PO-Bargaon, P.S.- Azimabad, Dist- Bhojpur-Ara (Bihar).

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.

2. The Joint Director (East), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin-

- 900441.
3. Joint Director (A & AM), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
4. The ECHS Polyclinic, Ara represented through Officer in Charge, Ara, Bhojpur, Katira-Ara, District- Bhojpur, Bihar, Pin-802301.
5. The ECHS polyclinic Danapur represented by Officer-In-charge, Danapur, C/o MH Danapur Cantt, Pin-801503.
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin- 900441.
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16673 of 2015

1. Shankar Prasad Singh @ S. P. Singh Son of late G.Singh resident of Village+Po Barnao, P.sAayar ,District Bhojpur Ara Bihar.

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS-Patna,C/o HQ J & B ,Pin -900441
2. The Joint Director (East), Regional Centre ECHS- Patna, C/o HQ J & B ,Pin - 900441
3. Joint Director(A & M) , Regional Centre ECHS- Patna, C/o HQ J & B ,Pin - 900441
4. The ECHS Polyclinic ,Ara represented through Officer in Charge, Ara Bhojpur, Katirra -Ara District Bhojpur-Bihar -pin802301
5. The ECHS Polyclinic Danapur represented by Officer-in-Charge, Danapur , C/o MH Danapur , Danapur Cantt, Pin 801503
6. The Stateion HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin 900441
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur District Patna Bihar.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16292 of 2015

1. Surendra Kumar Son of Late Braj Bhushan Singh resident of village + Post- Ekwari, P.S.- Sahar, District- Bhojpur (Ara)

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS-Patna, C/o- HQ J & B, Pin- 900441
2. The Joint Director (East.), Regional Centre ECHS-Patna, C/o- HQ J & B, Pin- 900441
3. The Joint Director (East.), Regional Centre ECHS-Patna, C/o- HQ J & B, Pin-

- 900441
4. The ECHS Polyclinic, Ara represented through Officer In Charge, Ara Bhojpur, Katira- Ara, District- Bhojpur- Bihar Pin- 802301
 5. The ECHS Polyclinic, Danapur represented by Officer-In-Charge, Danapur, C/o MH Danapur, Danapur Cantt, Pin- 801503
 6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt., Pin- 900441 null null
 7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16293 of 2015

1. Nagendra Ram @ N. Ram S/o Chote Lal Ram Resident of village - Chhota Kalyan Pur, P.O. + P.S. Udawant Nagar, Distt. - Bhojpur (Bihar)

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
2. The Joint Director (East), Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
3. Joint Director (A & AM), Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
4. The ECHS Polyclinic, Ara represented through office In Charge, Ara, Bhojpur, Katira - Ara, District - Bhojpur - Bihar Pin 802301
5. The ECHS Polyclinic, Danapur, represented by officer - In Charge, Danapur, C/o MH Danapur Cantt, Pin - 801503
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt., Pin 900441
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District - Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16352 of 2015

1. Shakti Kumar Son of S.N. Sharma resident of Road No. 24, Pole No. 24H, Rajiv Nagar, District - Patna, Bihar

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
2. The Joint Director (East), Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
3. Joint Director (A & AM), Regional Centre ECHS - Patna, C/o HQ J & B, Pin 900441
4. The ECHS Polyclinic, Ara represented through office In Charge, Ara, Bhojpur,

Katira - Ara, District - Bhojpur - Bihar Pin 802301
5. The ECHS Polyclinic, Danapur, represented by officer - In Charge, Danapur, C/o MH Danapur Cantt, Pin - 801503
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt., Pin 900441
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District - Patna

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16375 of 2015

1. Amrita Devi, W/o Late D Pandit, Resident of Sarbodaya Nagar, Dhobighat, Anaith, P.S.- Nawada, District- Bhojpur- Ara (Bihar).

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
2. The Joint Director (East), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
3. Joint Director (A & AM), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
4. The ECHS Polyclinic, Ara represented through Officer in Charge, Ara, Bhojpur, Katira-Ara, District- Bhojpur, Bihar, Pin-802301.
5. The ECHS polyclinic Danapur represented by Officer-In-charge, Danapur, C/o MH Danapur Cantt, Pin-801503.
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin- 900441.
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar.

.... Respondent/s

with

Civil Writ Jurisdiction Case No. 16392 of 2015

1. Satish Kumar Singh @ S. K. Singh son of Sri A Singh, resident of village+PO- Aamsari, P.S. Murar, District- Buxar (Bihar).

.... Petitioner/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
2. The Joint Director (East), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
3. Joint Director (A & AM), Regional Centre ECHS- Patna, C/o- HQ J & B, Pin- 900441.
4. The ECHS Polyclinic, Ara represented through Officer in Charge, Ara, Bhojpur, Katira-Ara, District- Bhojpur, Bihar, Pin-802301.
5. The ECHS polyclinic Danapur represented by Officer-In-charge, Danapur, C/o

- MH Danapur Cantt, Pin-801503.
6. The Station HQ Cell, HQ J & B Sub Area, Danapur Cantt, Pin- 900441.
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District- Patna, Bihar.

.... Respondent/s

Appearance :

(In CWJC No. 18430 of 2015)

For the Petitioner/s : Mr. Suresh Pd Singh No.1
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Awadesh Kumar Pandey, SCGC
Mr Ravinder K Umar Sharma, CGC

(In CWJC No. 15849 of 2015)

For the Petitioner/s : Mr. Abhinav Srivastava
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mrs Kanak Verma, CGC

(In CWJC No. 16504 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16513 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16407 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16279 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16715 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16673 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Dr Punam Kumari Singh, CGC

(In CWJC No. 16292 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mr Anshay Bahadur Mathur, CGC

(In CWJC No. 16293 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Dr Punam Kumari Singh, CGC

(In CWJC No. 16352 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh
For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General

Dr Punam Kumari Singh, CGC

(In CWJC No. 16375 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh

For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mrs Kanak Verma, CGC

(In CWJC No. 16392 of 2015)

For the Petitioner/s : Mr. Sumeet Kumar Singh

For the Respondent/s : Mr. S.D Sanjay Addl. Solicitor General
Mrs Kanak Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 01-04-2016

Since all the writ applications have raised identical questions of law and fact with minor variation, on a mention being made by counsel representing the petitioners in the present writ applications, they have been listed and heard together.

2. The common thread of grievance which runs through all these writ applications is that the respondent authorities, who are functionaries of the Ex-Servicemen Contributory Health Scheme (ECHS) have arbitrarily brought to an end the engagement of these petitioners even before the period of contract expired. The engagements are on the post of Dental Officers, Physiotherapist, Drivers, Lab Technicians, Lab Attendant etc.

3. One thing, however, is not and cannot be a matter of dispute that all the engagements have been made on contract for a fixed period of one year, may be extendable by another year. It is the decision of the respondents to disengage the petitioners and engage some other persons on contract, which led to filing of the writ

applications and challenging the orders/ notices for disengagement.

4. Learned counsels representing the petitioners argue in unison that one set of contractual appointees cannot be substituted by another set of contractual appointees. There is nothing to indicate that their service was not satisfactory during the period contract subsisted and, therefore, the respondent authorities only to accommodate certain set of people for other reasons have engaged other persons at the cost of these petitioners.

5. Learned Additional Solicitor General representing Union of India defends the decision and has filed detailed counter affidavit in the cases. However, for the purposes of convenience, the counter affidavit, which has been filed in the case of Chandan Kumar Thakur (CWJC No.15849 of 2015), has been referred to. In the said counter affidavit, the scheme known as Ex-Servicemen Contributory Health Scheme formulated by Union of India has been brought on record. The object and purpose for framing such Contributory Health Scheme is to provide medical facilities to the ex-servicemen, who are spread across the country and need priority medical attention after their disengagement from the Forces. It is a rather detailed scheme, which is Annexure- A to the counter affidavit and Annexure- B is the procedure laid down by the Government of India, Ministry of Defence for the contractual employment of the staff to be engaged for the

ECHS Poly Clinics.

6. One thing is evident from reading of the scheme as well as the agreement entered between the petitioners and the respondent Union of India that these engagements are on contract for a fixed period and the outer limit contemplated in the scheme for such engagement is two years. It also envisages a fixed remuneration for the people, who are engaged on contract and it talks in terms of disengagement prior to expiry of the contract.

7. Another aspect of significance, which has been pointed out by the learned Additional Solicitor General, is that most of these engagements are required to be confined to the ex-servicemen. However, certain leeway has been given for engaging civilians in absence of availability of ex-servicemen but to ensure the objective of such engagements a churning process keeps going on every year. The exercise for such selection and identification of hands on different posts under the scheme is carried out year to year after due advertisement issued in the newspapers.

8. Even in the present case an advertisement was issued. All these petitioners responded to the advertisement. They participated but since the respondent authorities found better or more suitable ex-servicemen, who were required to be engaged on contract on similar terms and conditions as the present petitioners, the

petitioners were given notice of disengagement. When the engagement letters have been issued after due process of selection, petitioners have rushed to the Court.

9. Looking at the nature of the engagement and the scheme, these are not engagements, which are being made on any permanent or substantive basis but are made with a particular object, which is required to be achieved. Petitioners cannot use this engagement as an opportunity to hang on to the posts on one pretext or other. The terms and conditions of such contract were widely known to such persons and if there is a breach of the contract as is being urged at the bar, they have remedy under common law and not in a writ application.

All the writ applications are dismissed being devoid of merit. The interim order, if any, will be vacated since the Court does not find any infirmity with the decisions under challenge.

(Ajay Kumar Tripathi, J)

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