

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No. 1002 of 2016

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Harendra Choudhary @ H. Choudhary, Son of R.D. Choudhary,
resident of Village – Gayanpura, P.O. – Kawara, P.S. - Jagdishpur,
District - Bhojpur.

.... Appellant/s

Versus

1. The Union of India represented through Director Regional Centre, Regional Centre, ECHS - Patna, C/o HQJ & B, Pin - 900441.
2. The Joint Director (East), Regional Centre ECHS - Patna, C/o HQJ & B, Pin - 900441.
3. Joint Director (A & AM), Regional Centre ECHS - Patna, C/o HQJ & 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, HQJ & B Sub Area, Danapur Cantt., Pin - 90441.
7. The Additional Officer, Station Commander, Station HQ Cell, Danapur, District - Patna, Bihar.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Nilanjan Chatterjee, Adv.

For the Respondent/s : Mr. S.D. Sanjay, Sr. Adv. (A.S.G.)

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CORAM: HONOURABLE THE CHIEF JUSTICE

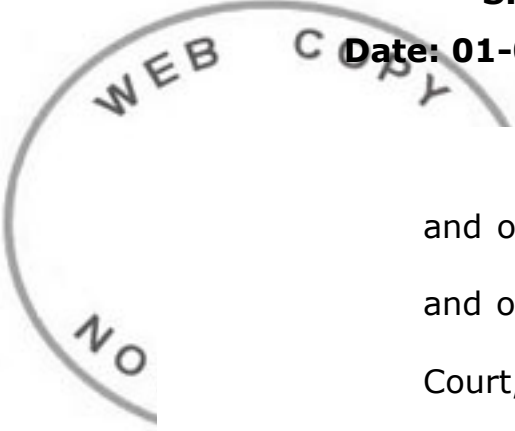
And

**HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

ORAL JUDGMENT & ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 01-09-2016



The appellant, being aggrieved by the judgment and order, dated 01.04.2016, passed in C.W.J.C. No. 16513 and other analogous cases, by a learned single Judge of this Court, whereby his application, made under Article 226 of the Constitution of India, came to be rejected, has preferred the present appeal, under Clause 10 of the Letters Patent of this High Court.

2. We have heard Mr. Nilanjan Chatterjee, learned Counsel, appearing on behalf of the appellant, and Mr. S.D. Sanjay, learned Additional Solicitor General, appearing on behalf of the Union of India.

3. The appellant was appointed, under the Ex-Servicemen Contributory Health Scheme (ECHS), on contract basis for a prescribed period as Chowkidar. It was prescribed in the contract for appointment that the prescribed period of contract may be extendable by another year. However, services of the appellant came to be terminated after the respondents-authorities decided to hold a fresh competitive test for selecting persons to various posts, including the post which the appellant was holding. A subsequent advertisement was also made for appointment

on contractual basis.

4. This is not in dispute that pursuant to the said subsequent advertisement, the appellant had also applied and participated in the process of selection. The appellant, however, could not succeed and his contractual engagement, thus, came to be terminated. Aggrieved by the said decision, the appellant preferred writ application, giving rise to C.W.J.C. No. 16513 of 2015, which has been dismissed by the judgment and order, under appeal, along with other analogous cases.

5. Learned Counsel, appearing on behalf of the appellant, has submitted that though specific plea was taken that one set of contractual appointments cannot be replaced by another set of contractual appointees, the said aspect has not been dealt with by the learned single Judge in the judgment and order, under appeal, and, therefore, the same requires to be interfered with.

6. In our considered view, learned single Judge rightly did not address this submission made on behalf of the appellant, this being an admitted fact that pursuant to subsequent advertisement, inviting applications for appointment on contractual basis, the appellant had applied and participated in the process of selection. After having been declared unsuccessful, in our view, it would not be permissible and open to the appellant to turn around and

question the legality of process of selection itself. The appellant having acquiesced to the subsequent selection of process of appointment on contractual basis; cannot question and challenge the said the same, after having been declared unsuccessful.

7. We do not find any merit in this appeal, which is, accordingly, dismissed.

8. It is, however, made clear that any observation made in the present judgment and order or in the judgment and order, under appeal, shall not prejudice the appellant's case nor debar him from participating in a process of selection/appointment for a post, under the said scheme in future, in any manner.

(I. A. Ansari, CJ.)

(Chakradhari Sharan Singh, J.)

Praveen-II/-

AFR/NAFR	NAFR
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