

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1518 of 2010
IN
Civil Writ Jurisdiction Case No. 14117 of 2009**

=====

1. The State Of Bihar Through The Director In Chief, Health Services, Bihar, Patna
2. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani
3. The In-Charge Medical Officer, Primary Health Centre, Ghoghardiha, Distt.- Madhubani

.... Appellants

Versus

Suresh Prasad Suman S/O Sri Jogeshmar Narayan Yadav, Posted as B.H.W. (Basic Health Worker), Primary Health Centre, Ghoghardiha, Madhubani, R/O Vill.- Poari, P.S.- Bisfi, Distt.- Madhubani

.... Respondent

with

=====

**Letters Patent Appeal No. 1502 of 2010
IN
Civil Writ Jurisdiction Case No. 14149 of 2009**

=====

1. The State Of Bihar Through The Director In Chief, Health Services, Bihar, Patna
2. The Civil Surgeon Cum Chief Medical Officer District- Bhojpur (Arrah)
3. The Incharge Medical Officer Primary Health Centre, Charpokhari, Distt.- Bhojpur (Arrah)

.... Appellants

Versus

Ashok Kumar S/O Late Brija Ram Posted As Mishrak (Pharmacist/Compounder), Primary Health Centre, Charpokhri, R/O Vill. And P.S.- Charpokhri, Distt.- Bhojpur (Arrah)

.... Respondent

with

=====

**Letters Patent Appeal No. 1556 of 2010
IN
Civil Writ Jurisdiction Case No. 14899 of 2009**

=====

1. The State Of Bihar
2. The Principal Secretary, Health Department Bihar, Patna
3. The Director-In-Chief, Health Services Bihar, Patna
4. The Civil Surgeon-Cum-Chief Medical Officer Madhubani
5. The Incharge Medical Officer, Primary Health Centre Ghoghardiha, Distt.- Madhubani

.... Appellants

Versus

Rohitesh Kumar @Rohitesh Kumar Yadav S/O Late Hiralal Yadav R/O Vill Balia, P.S.Sakari, Distt-Madhubani



.... Respondent

with

=====

Letters Patent Appeal No. 1542 of 2010
IN
Civil Writ Jurisdiction Case No. 15046 of 2009

=====

1. The State Of Bihar
2. The Principal Secretary Health Department, Bihar, Patna
3. The Director-In-Chief Health Services, Bihar, Patna
4. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani
5. The In-Charge Medical Officer Primary Health Centre, Ghoghardiha, Distt.- Madhubani

.... Appellants

Versus

Bhola Prasad Rai S/O Sri Madan Prasad Rai R/O Vill.- Buchchamar, P.S.- Sudarpur Pira, Distt.- Darbhanga

.... Respondent

with

=====

Letters Patent Appeal No. 1524 of 2010
IN
Civil Writ Jurisdiction Case No. 5464 of 2008

=====

1. The State Of Bihar
2. The Secretary Health Department, Bihar, Patna
3. The Director-In-Chief Health Services, Bihar, Patna
4. The Civil Surgeon-Cum-Chief Medical Officer, Madhubani

.... Appellants

Versus

1. Dashrath Sah S/O Late Uttam Lal Sah R/O Vill.- Mominpur, P.S.- Sakari, Distt.- Madhubani
2. Baikynath Sah S/O Late Anup Sah R/O Vill.- Mominpur, P.S.- Sakari, Distt.- Madhubani
3. Vijay Kumar Yadav S/O Late Uttim Lal Yadav R/O Vill.- Mominpur, P.S.- Sakari, Distt.- Madhubani
4. Jagdish Prasad Yadav S/O Muneshwar Yadav R/O Vill.- Lalganj, P.S.- Kewti, Distt.- Darbhanga
5. Krishan Kumar Singh S/O Baidynath Yadav R/O Vill.- Mominpur, P.S.- Sakari, Distt.- Madhubani

.... Respondents

with

=====

Letters Patent Appeal No. 1774 of 2010
IN
Civil Writ Jurisdiction Case No. 16680 of 2009

=====

1. The State Of Bihar
2. The Principal Secretary, Department Of Health Government Of Bihar, Patna
3. The Director-In-Chief , Health Services Department Of Health Government Of



Bihar, Patna

- 4. The Regional Deputy Director, Health Services Darbhanga Division, Darbhanga
- 5. The Civil Surgeon-Cum-Chief Medical Officer Madhubani
- 6. The In-Charge Medical Officer, Primary Health Centre Ghoghardiha, Madhubani

.... Appellants

Versus

Baij Nath Yadav S/O Late Ram Saran Yadav R/O Vill Paraul, P.O. Rashidpur, P.S.Manigachhi, Distt-Darbhangha

.... Respondent

with

=====

Letters Patent Appeal No. 612 of 2016
IN
Civil Writ Jurisdiction Case No. 7887 of 2009

=====

- 1. The State of Bihar, through the Principal Secretary, Department of Health, Government of Bihar, Patna.
- 2. Director of Chief, Health Service, Government of Bihar, Patna.
- 3. Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur.

.... Appellants

Versus

Madan Mahto son of Late Marai Mahto resident of Village - Hakimtola, P.S. - Mirganj, District - Gopalganj.

.... Respondent

=====

Appearance :
(In LPA No.1518 of 2010)
For the Appellant/s : Mr. A.K.CHONGDAR (AC-AAG2)
For the Respondent/s : Mr.
(In LPA No.1502 of 2010)
For the Appellant/s : Mr. Shailendra Kumar, AC to PAAG-2
For the Respondent/s : Mr. Gagandeo Yadav, Advocate
(In LPA No.1556 of 2010)
For the Appellant/s : Mr. A.K.CHONGDAR (AC-AAG2)
For the Respondent/s : Mr.
(In LPA No.1542 of 2010)
For the Appellant/s : Mr. A.K.CHONGDAR (AC-AAG2)
For the Respondent/s : Mr.
(In LPA No.1524 of 2010)
For the Appellant/s : Mr. A.K.CHONGDAR (AC-AAG2)
For the Respondent/s : Mr.
(In LPA No.1774 of 2010)
For the Appellant/s : Mr. Shailendra Kumar, AC to PAAG-2
For the Respondent/s : Mr. Gagandeo Yadav, Advocate
Mr. Ajay Kumar Chakraborty, Advocate
Mr. Ashok Kumar Prasad, Advocate
(In LPA No.612 of 2016)
For the Appellant/s : Mr. Anjum Perveen
For the Respondent/s : Mr.

=====



CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)
Date: 23-11-2017

Prayer for accepting fresh vakalatnama is allowed.

Even though the cases are listed 'For Orders on Office Notes', but considering the fact that these appeals are pending since 2010 and the orders in question under challenge were passed by the learned Writ Court way back in the year 2009 and similar issues involved have already been decided in L.P.A. No.230 of 2011 (State of Bihar vs. Vinay Kumar Singh) and analogous cases on 29.3.2011 and identical L.P.A's. filed by the State Government have already been dismissed, we see no reason to adjourn the matter. The issues having already been decided, we propose to proceed with the matter on merit.

All these appeals have been filed by the State Government and challenge therein are made to various orders passed by the learned Writ Court on 13.11.2009 and various other dates whereby termination of the service of the respondent employees were quashed.

Appointments on various posts in the Health Department were made way back in the year 1988-89 and thereafter their services were terminated in the year 2011. Challenging the termination, various writ petitions were filed. All the writ petitions were allowed and a learned Single Bench of this Court, in all the cases held that the termination was unsustainable and with regard to various issues



involved, as the termination was without following the due process of law and in violation to the principles of natural justice, the petitions were allowed. In fact, appointments in the Health Department made to various Class-III and Class-IV posts, which were subject matter of termination were quashed by the learned Writ Court primarily on account of the fact that appointments made more than 10-15 years back could not be terminated in the manner so done.

Challenging the orders passed by the learned Writ Court, Letters Patent Appeals were filed and we find that in one batch of L.P.A's. decided by a Division Bench of this Court on 29.3.2011, L.P.A. No.230 of 2011 and other cases (State of Bihar vs. Vinay Kuamr Singh and others), by a detailed order passed the learned Bench found no error in the order passed by the learned Writ Court and dismissed the appeals after taking note of various provisions of law, the violation of the principles of natural justice and the law laid down by the Supreme Court in the case of **Secretary, State of Karnataka vs. Uma Devi and others, (2006)4 SCC 1, State of Karnataka and others vs. M.L. Kesari and others, 2010(9) SCC 247** and decided the issue by an order passed on 29.3.2001. However, in a different batch of appeals that were filed by the State Government, another Co-ordinate Bench passed a different order and constituted a one member committee consisting of Justice (Retired) Uday Sinha to look into the matter. Challenging these orders passed, subsequently by the Division Bench constituting a one member



committee, matter travelled to the Supreme Court at the instance of the employees concerned and in Civil Appeal No.6484 of 2011, the Hon'ble Supreme Court by a detailed order passed on 8th August, 2011 held that constitution of a one member committee without consent of the employees was unsustainable, quashed the matter and remanded the issue for reconsideration on merit before this Court and, accordingly, on such consideration, L.P.A. No.1518 of 2010, 1502 of 2010 and other cases are pending before this Court. As far as the present appeals are concerned, now the respondents argue that the appeal is to be decided on merit and identical orders by the learned Writ Court have already been rejected by a Co-ordinate Bench of this Court in L.P.A. No.230 of 2011 and other cases, no further indulgence into the matter is called for and judicial propriety requires that in the absence of there being any circumstances to take a different view than the one taken by the Co-ordinate Bench on 29.3.2011 in L.P.A. No.230 of 2011, this appeal has also been dismissed on identical terms.

We see no reason to reject the aforesaid contention of the respondents. Once a Co-ordinate Bench of this Court in L.P.A. No.230 of 2011 and other cases has dismissed similar appeal filed lby the State Government, we see no ground to make any further indulgence into the matter particularly when the litigation policy of the State Government warrants that once benefit is granted in s similar case, the same should be followed in all other cases.



Keeping in view the reasons which have already been pointed out by a Co-ordinate Bench of this Court on 29.3.2011 while deciding L.P.A. No.230 of 2011 and other cases, we dismiss these appeals in identical terms. The appellants State Government is free to proceed into the matter after conducting an enquiry as has been held by a Single Bench and affirmed by the Division Bench, all the directions issued in L.P.A. No.230 of 2011 on 29.3.2011 shall apply to the case of present appellants also and they will also be granted similar benefits.

With the aforesaid, all these appeals stand dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	25-11-2017
Transmission Date	

