

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9451 of 2020

1. Dr. Deepak Kumar Singh Son of Ramanand Singh Resident of House No.1, Gokul Marg, North S.K. Puri, P.S.- S.K. Puri, Bihar- 800001.
2. Dr. Ravi Ranjan Son of Satya Narayan Prasad Resident of Sundrpatti, P.S.- Pakridayal, P.O.- Sundarpatti, District- East Champaran.
3. Dr. Nirbhay Kumar Singh Son of Late Krishnadeo Singh Resident of Bheriyahi, P.S.- Pakdidayal, District- East Champaran.
4. Dr. Vinay Kumar Son of Sri Rajendra Prasad Singh Resident of Bhadodih, Bishnupur Road Bypass, Ward No.4, Jhumri Tilaiya, P.S. Koderma, District- Koderma, Jharkhand- 825409.
5. Dr. Om Prakash Son of Vidya Sagar Arya Resident of Village- Dharhari, P.S.- Chiraya, P.O.- Dipahi, District- West Champaran.
6. Dr. Arvind Kumar Nanda Son of Ganga Pandit Resident of Flat No. G4, Block- B, Mundeshwari Terrace Garden, Ashiyana Digha Road, P.S.- Rajeevnagar, District- Patna.
7. Dr. Gopal Krishna Son of Hari Prasad Singh Resident of House No. 61, Road No. 2, Indrapuri, P.O. Keshrinagar, P.S.- Patliputra, District- Patna, Bihar- 800024.
8. Dr. Amitabh Ranjan Son of Late Rajeshwar Prasad Narayan Sinha Resident of Patahi Niwas, Juran Chapra, Road No.3, P.S. Barahampura, District- Muzaffarpur.
9. Dr. Sanjay Kumar Son of Rajeshwar Prasad Sinha Resident of At and P.O.- MIT, P.S.- Brahmpura, District- Muzaffarpur.
10. Dr. Amresh Prasad Sinha Son of Ramlakhan Prasad Sinha Resident of At and P.O. Dohara, P.S. Nardiganj, District- Nawada.
11. Dr. Ravi Shankar Son of Sadhu Sharan Singh Resident of At and P.O.- Jethian, P.S. Atri, District- Gaya, Bihar.
12. Dr. Amitabh Son of Late Balmiki Sharan Sharma Resident of 414F, East Boring Canal Road, P.S. Buddha Colony, District- Patna, Bihar- 800001.
13. Dr. Anjani Kumar Son of Late Sheo Shankar Prasad Resident of House No. CA/8, P.C. Colony, Lohianagar, P.S.- Kankarbagh, District- Patna.
14. Dr. Rajesh Kumar Singh Son of Ram Kumar Singh Resident of C-8, Krishi Nagar, P.S.- Shastri Nagar P.O.- Ashiyana Nagar, District- Patna, Bihar- 800025.
15. Dr. Chandramani Vimal Son of Indradeo Prasad Singh Resident of Lalganj Karvi, P.S.- Dumraon, P.O.- Textile Colony, District- Buxar, Bihar- 802136.
16. Dr. Shruti Prakash Wife of Chandramani Vimal Resident of Lalganj Karvi, P.S.- Dumraon, P.O.- Textile Colony, District- Buxar, Bihar- 802136.
17. Dr. Shatrughan Ram Son of Bachu Ram Resident of Bhimpura, P.S.- Sandesh, P.O.- Baga, District- Bhojpur, Bihar- 802164.
18. Dr. Srinivas Upadhyay Son of Ramjee Prasad Upadhyay Resident of Ward No. 20, Sohnipatti, P.S.- Buxar Town, District- Buxar, Bihar- 802101.



19. Dr. Shyam Babu Rajak Son of Late Ram Autar Rajak Resident of Bakarganj, P.S.- Pirbahore, P.O.- Bankipur, District- Patna, Bihar- 800004.
20. Dr. Sanjay Kumar Son of Late Jagdish Prasad Singh Resident of Dibhiya, P.S.- Kargahar, P.O.- Dibhiya, District- Rohtas.
21. Dr. Madhu Singh Wife of Sanjay Kumar Resident of Dibhiya, P.S.- Kargahar, P.O.- Dibhiya, District- Rohtas.
22. Dr. Mitendra Kumar Son of Late Ramnath Singh Resident of Beur Near IIHER, P.S.- Beur, P.O.- Beur, District- Patna, Bihar 800002.
23. Dr. Jyoti Prasad Sinha Son of Prabhu Charan Prasad Sinha Resident of Suki-via- Patepur, P.O.- Suki, P.S.- Patepur, District- Vaishali.
24. Dr. Maharani Rai Wife of J.P. Sinha Resident of Suki-via-Bariyapur, P.O.- Suki, P.S.- Patepur, District- Vaishali.
25. Dr. Manoj Kumar Mishra Son of Akshyakant Mishra Resident of Gaytri Nagar, P.S.- Motihari Town, District- East Champaran, Bihar- 845401.
26. Dr. Chetan Jaiswal Son of Anand Deo Prasad Resident of Private Bus Stand Road, Chhatauni Chaok, P.S.- Chhatauni, District- East Champaran.
27. Dr. Shiv Bhushan Kumar Son of Sri Deo Lal Rajak Resident of Village-Dariya Chhapra, P.O. and P.S.- Motipur, District- Muzaffarpur, Bihar- 843111.
28. Dr. Harendra Prasad Son of Late Satyadev Prasad Resident of Bhakurahiya, P.O.- Saraiya Gopal- via- Patahi, P.S.- Patahi, District- East Champaran.
29. Dr. Mohan Lal Prasad Son of Mahavir Prasad Resident of Pakridayal Road, Near Bengali Colony, Chhatauni Bazar, P.S.- Chhatauni, District- East Champaran, Bihar- 845401.
30. Dr. Kumar Suraj Prakash Son of Ram Bhajan Chaudhari Village- Mahuari, P.O. and P.S.- Arwal, District- Arwal, 804401.
31. Dr. Mohammad Mujtaba Jafri Son of Mohammad Nazim Jafri Resident of Al- Fazal Complex, Flat No. 202, Near S. Raza Girls High School, P.S. Gardanibagh, District- Patna, Bihar- 800002.
32. Dr. Devesh Chand Son of Prem Chand Resident of near Mahadev High School, Gani Chak, P.S. Khusrupur, District- Patna, Bihar- 803202.
33. Dr. Archana Katiyar Wief of Jitendra Singh Gangwar Resident of A/3/17, Officers Flat Bailey Road, Rajvanshi Nagar, P.S.- Shastri Nagar, District- Patna.
34. Dr. Mrityunjay Kumar Son of Bodh Narayan Sah Resident of House No. 16, Kauwa Koli Lane, Near Hanuman Mandir, P.S.- Nath Nagar, District- Bhagalpur, Bihar- 812006.
35. Dr. Pratibha Kumari Wife of Mithilesh Prasad C/14 Doctors Colony Central Hospital, Naisarai, P.S.- Ramgarh, District- Ramgarh, Jharkhand- 829122.
36. Dr. Sanjay Kumar Suman Son of Adhiklal Prasad Yadav Resident of Babutola, Banka Near Tara Mandir, P.O. and P.S.- Banka, District- Banka, Bihar- 813102.
37. Dr. Kumar Sachin Kishore Son of Sheo Ratan Ram Resident of Ward No.26, Behind Ambedkar Hostel Chandmari, P.S.- Motihari Town, District- East



Champaran, Bihar- 845401.

38. Dr. Mir Shafiqur Rahim Son of Dr. Mir Moijar Rahim Resident of Galaxy House, Brahampura Mehendi Hassan Road, P.O.- M.I.T., P.S.- Barhampura, District- Muzaffarpur, Bihar- 842003.
39. Dr. Abdul Gani Son of Md. Ayub Resident of Village- Nauka Tola, P.O. and P.S.- Raksaul, District- East Champaran, Bihar- 845305.
40. Dr. Daya Sagar Arya Son of Late Saryu Arya Resident of Village- Dharhari, P.O.- Dipahai, P.S.- Chiraiya, District- East Champaran, Bihar- 845315.
41. Dr. Sandhya Kumari Wife of Dr. Amrendra Kumar Sinha Resident of Village and P.O.- Badka Rajapur, P.S.- Simri, District- Buxar.
42. Dr. Pradeep Kumar Son of Jairam Prasad Resident of Raghunathpur, P.S.- Chiraya, P.O.- Mirpur, District- East Champaran.
43. Dr. Abhijit Singh Son of Deomani Singh Resident of Bhagwanpur House No.1, Behind S.B.I. Rajvanshi Nagar, P.S.- Shastrinagar, District- Patna, Bihar- 800023.
44. Dr. Chandan Kumar Son of Gopal Prasad Sinha Resident of Sanchi Patti Bagbhali Gachhi, P.O. Hajipur, P.S.- Hajipur, District- Vaishali, Bihar- 844101.
45. Raghvendra Kumar Son of Yadvendra Kumar Resident of 101/386, A.P. Colony, P.S.- Rampoor, District- Gaya, Bihar- 823001.
46. Dr. Ajit Kumar Son of Jagdish Rai Resident of Naya Talab, Station Road, P.S.- Dumrao, District- Buxar, Bihar- 802119.
47. Ajay Pratap Son of Udit Narayan Singh Resident of Village and P.O.- Barauli, P.S.- Bhabhua, District- Kaimur.
48. Rajiv Ranjan Son of Shree Kant Dubey Resident of Village and P.O.- Jhumar Dhara, Block- Barun, P.S.- Barun, District- Aurangabad.
49. Dr. Umashankar Prasad Son of Sri Siyaram Mahto Village and P.O.- Lagunia Suraj Kanth, P.S.- Samastipur, District- Samastipur, Bihar- 848101.
50. Dr. Madhu Kiran Wife of Dr. Ashok Kumar Sinha Resident of Langartoli, Naala Road, P.O. and P.S.- Kadamkuan, District- Patna.
51. Dr. Sanjay Kumar Gupta Son of Sri Lallan Prasad Resident of Village and P.O.- Sakra Bazaar, P.S.- Ramgarhwa, District- East Champaran.
52. Dr. Mahendra Singh Son of Late Lakshmi Prasad Resident of Village- Mahdeva, P.O.- Noniadih, P.S.- Raxaul, District- East Champaran.
53. Dr. Satish Kumar Son of Late Ram Nagina Paswan Resident of Village- Maniyarpur, Dariyapur, Rajapur, P.S.- Nathnagar, District- Bhagalpur.
54. Dr. Mahesh Chaudhary Son of Dev Nath Choudhary Resident of At and P.O.- Mahua, P.S.- Mahua, District- Vaishali, Bihar- 844122.
55. Dr. Ehtamamul Haque Son of Ekramul Haque Resident of Patharghatti, Bibiganj, Dighalbank, P.S. Bahadurganj, District- Kishanganj, Bihar- 855101.
56. Dr. Rajeev Ranjan Kumar Son of Lal Babu Sah Resident of near Kotwali Chowk, Gali No.1, P.S.- Bettiah, District- West Champaran, Bihar- 845438.
57. Dr. Digambar Sharma Son of Late Ratan Lal Sharma Resident of Jai Prakash



Colony, Madhubani, P.S.- Purnea, District- Purnea, Bihar- 854301.

58. Dr. Amit Kumar Jaiswal Son of Sri Shankar Prasad Jaiswal Resident of Station Road, P.S.- Sikta, District- East Champaran.
59. Dr. Shashi Bhushan Prasad Sinha Resident of Flat No. 202, Kumar Ranjan Enclave, near Rajeshwar Hospital, Bahadurpur, P.S.- Kankarbagh, District- Patna, Bihar- 800020.
60. Dr. Sneha Tripti Wife of Sri Radhakant Resident of Flat 4F, A Block, Sai Nilayam Apartment, Police Colony, P.S. Anishabad, District- Patna.
61. Dr. Sushil Kumar Singh Resident of Umarao Singh Resident of College Road, Kaudihar Chowk, Ward No.3, P.S.- Raxaul, District- East Champaran, Bihar- 845305.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar.
2. The Additional Chief Secretary-cum-Principal Secretary, Finance Department, Government of Bihar.
3. The Additional Chief Secretary-cum-Principal Secretary, General Administration Department, Government of Bihar.
4. The Additional Chief Secretary-cum-Principal Secretary, Health Department, Government of Bihar.
5. The Director in Chief, Health Department, Government of Bihar.
6. The Deputy Secretary, Health Department, Government of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Kaushik, Advocate
For the Respondent/s : Mr. Rajeshwar Singh, GA-10

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 04-01-2022

This matter is heard via video conferencing due to circumstances prevailing on account of COVID-19 Pandemic.

2. Heard learned counsel for the parties.

3. In the instant petition, the petitioners have prayed for the following reliefs:

“i. For issuance of an order, direction or writ of *mandamus* for directing the respondent authorities to



count the past service of the petitioners rendered on contractual basis in the capacity of General Medical Officers for the purpose of granting benefit under the Dynamic Assured Career Progression Scheme introduced by the Government of Bihar for the employees of Bihar Health Service.

ii. For issuance of an order, direction or writ of *mandamus* for directing the respondent authorities to grant all consequential benefits including arrears of difference of salary arising out of the benefit of assured career progression under the Dynamic A.C.P. Scheme from the date of their eligibility after confirmation of service to the present day.”

4. Short question for consideration in the present petition is whether the petitioners are entitled to count their contract service towards grant of A.C.P. or not?

5. The petitioners have not pointed out any statutory provision under A.C.P. Scheme/Rules, the contract service shall be taken into consideration for the purpose of extending A.C.P. benefits.

6. Learned counsel for the petitioners has submitted that identical contractual employees, who were appointed like para-medical workers, have been extended the benefit of contract service towards ACP. Illegal benefit, which is granted to a person, the same shall not be extended to petitioners. In other words, illegal benefit extended to person cannot be extended by means of



judicial order. Recently, on 17.12.2021, the Apex Court in the case of **Rajesh Pravinchandra Rajyaguru Vs. Gujarat Water Supply & Sewerage Board and Ors.** (Civil Appeal No.7578 of 2021) held that illegality cannot be perpetuated.

7. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2022
Transmission Date	NA

