

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

O.A. No.239/2018, 178/2018, 263/2018, 570/2018, 571/2018, 626/2018 & 26/2019

CORAM:

HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

HON'BLE MR. TARUN SHRIDHAR, MEMBER(A)

IN O.A NO.239 of 2018

1. Bhagyalaxmi Roul aged about 27 years D/o – Sudarsan Roul of At/PO-Sampur, Dist- Puri at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
2. Rakesh Kumar aged about 26 years son of Birju Kumar At/PO – Pataliya, Alwar, Rajasthan, at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
3. Gajanand aged about 28 years son of Naturam At Ward No. 1, Near Tagore School, Nawacity, Nagaur, Rajasthan at present residing at AIIMS Nagar, PO – Patrapada, PS – Khandagiri, Dist – Khurda.
4. Laxmi Sivan aged about 28 years, wife of Sujesh Anand of MIG – 30, Near Sai Mandir, Kota Colony, PO- Prsu University, Raipur at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
5. Ram Singh Bajya aged about 25 years son of Pannalal Bajya, At – Tibariya, PO – Bassi Nagar, Jaipur, Rajasthan at present residing at AIIMS Nagar, PO – Patrapada, PS – Khandagiri, Dist – Khurda
6. Bibhuti Bhusan Chaudhury aged about 24 years son of Pramod Kumar Choudhury At – Chandrasekhpur, PO – Sampur, Dist – Khurda.
7. Nirma Bhoi aged about 26 years, D/o- Santosh Bhoi At-CHC, Badagada, Ganjan, Odisha at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
8. Nandeep Meena aged about 26 years son of Phool Chand Meena of At/PO – Mothpur, Dist – Baran, Rajasthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
9. Pankajini Mohanta aged about 25 years D/o Krushna Ch. Mohanta of kadalibadia, Shamakhunta, Dist – Mayrubhanj at present residint at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
10. Kamala Kisan aged about 26 years D/o – Benanjee Kisan At – Sikipani, PO-Dharuadhihi, Dist - Sundergarh at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

11. Sindhu Nandini Behera aged about 26 years, D/o-Bipin Bihari Behera of Jashapara, PO – Somepur, PS-Kishorenagar, Dist-Cuttack at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
12. Asha Manjaree Dip aged about 27 years D/o Pradip Kumar Dip of At/PO-Bedapandhe, Dist – Bolangir, at present residing at Lokanath Vihar, PO-Patrapada, PS-Khandagiri, Bhubaneswar, Dist – Khurda.
13. Ruby Kumari aged about 27 years D/o – Maheswar Das at Birajpur, PO-Bandarjori, Dist – Dumka, Jharkhand at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
14. K. Vijaya Kumari aged about 29 years D/o – K. Venkateswara Rao, At – Bapulapada, Krishna, AP at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
15. Rajashree Mohanty aged about 26 years wife of Statyajit Mohanty at Dhamnagar, PO – Dhamnagar, Dist – Bhadrak at present residing At/PO-GGP Colony, PS-Mancheswar, Bhubaneswar, Dist – Khurda/
16. Satyajit Mohanty aged about 27 years, son of Pradipta Kumar Mohanty, E-285, GGP Colony, PO – GGP Colony, PS-Mancheswar, Bhubaneswar, Dist – Khurda.
17. Rajashree Das aged about 27 years D/o – Birendra Das of At/PO- Badakuanl, Via Pritipur, Dist – Jajpur at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
18. K. Swati aged about 29 years wife of Nagendra Madichanala at/PO Bapulapada, Krishna, AP at present residing At/PO – Patrapada, PS- Khandagiri, Bhubaneswar, Dist – Khurda.
19. Manasini Sahu aged about 28 years wife of Dusmant Barik, At- Hatisila, PO-Degaon, Dist – Keonjha at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
20. Rajalaxmi Jana aged about 27 years D/o Hrushikesh jana At Nandapatna, PO-Balimunda, Dist – Bhadrak at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
21. Anupam Tiwari aged about 24 years son of Shyam Murari Sharma At-Shiv Colony, PO-Sikrai, Dist – Dausa, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
22. Karanveer Balai aged about 27 years son of Chitar Mal Balai at Dantraramgrah, PO – Danta barka, Charanwas, Suhawas, Sikar, Rajasthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
23. Dhruv Singh Meena aged about 29 years son of Rameshwar Meena At – Khokhala Angal, Dholpur, Rajsthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
24. Bhanuwarlal Parihar aged about 27 years son of Champalal Parihar At – Mada, PO – Sadri, Dist Pali, Rajasthan at present

residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

25. Raju Singh aged about 26 years son of Sri Prem Singh At/Po – Khera Thakur, Dist – Bharatpur, Rajasthan at present residing at AIIMS Nagar, Patrapada, khandagiri, Bhubaneswar, Dist – Khurda.
26. Ashoka Kumar Barik aged about 28 years, S/o Narayan Barik, at Baigunia, PO – Baigunia, Fategarh, Dist – Nayagarh at present residing at AIIMS Nagar, Patrapada, Khandargiri, Bhubaneswar, Dist – Khurda.
27. Laxmipriya Rout aged about 25 years D/o Aviram Rout of At/Po- Kalashpur, dist Kendrapara at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
28. Shri Kishan aged about 25 years son of Bhagawana Ram At – Kab, Rajod, PO-Rajob, Dist – Nagaur, Rajasthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.
29. Dhan Singh aged about 25 years son of Shyo Karan At VPO Bhintera, PO – Nangli Saledi Singh, Dist – Jhunjhunu, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khruda.
30. Ajit Kumar Kalwana aged about 26 years, At – Bhasinghpura, PO – Dhani Boraj, Dist – jaipur, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
31. Bhagaban Sahay aged about 26 years At – Dhod, PO – Bidoli, Dist – Sikar, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
32. Bajranglal Gurjar aged about 27 years son of Bhairunlal Gurjar At – Akoda, PO – Phulera, Dist – Jaipur, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
33. Dharmendra Singh Jadaun aged about 26 years son of Rajendra Singh Rajput At – Khidarpur, PO – Khidarpur, Dist – karauli, Rajasthan at present residing at Plot No. 218, AIIMS, Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
34. Vinod Kumar aged about 26 years son of Ram Ratan At – Vaidhanath Para, lanka Gate, Po Bundi, Dist Bundi, Rajasthan at present residing at MIG – 77, Udaygiri Vihar, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
35. Ahsram Tailor aged about 26 years on of Gopallal Tailor at Near Charbhuja Temple, PO – Kotri, Dist – Bhilwara, Rajasthan at present residing at MIG – 77, Udaygiri Vihar, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
36. Hariprasad meena aged about 27 years C/o Tehsil Bundi at VPO Gumanpura, Bundi, PO-Gumanpura, dist Bundi, Rajasthan at present residing at MIG – 77, Udaygiri Vihar, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.
37. Monish Potaliya aged about 24 years C/o Niketan sr. Sec School, Shree Sharda bal, Sindhari Charanan, PO Sindhari, Dist Barmer,

Rajasthan at present residing at MIG – 30, Udaygiri Vihar, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

38. Manish Kumawat aged about 27 years son of Sitaram Kumawat, At Plot No. 12, Kishan Colony, Malpura Gate, PO – Sanganer, Dist – Jaipur, Rajasthan at present residing at MIG – 30, Udaygiri Vihar, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

39. Raghunath Jat aged about 31 years son of Rameshwarlal Jat, At – Bhainsawa, Dist Jaipur, Rajasthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

40. Narendra Solanki aged about 25 years son of Om Parkash At/PO Jaitaran, Dist – Pali, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

41. Lekhraj Saini, aged about 26 years At/PO/Dist – Tonk, Rajasthan at present residing at AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

42. Mahendra Choudhary aged about 24 years son of Sishupal Choudhary at Beawer Road, Kekri, PO – Kekri, Dist – Ajmer, Rajasthan at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

43. Smitamayee Sahu, aged about 30 years wife of Dayasis Sahu At/po Larambha, Dist Bargarh, Odisha at present residing at MIG 208, AIIMS Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

44. Reeta Mohananda aged about 28 years D/o Muralidhar Mohananda At – Baunshberna, PO Madhupur, Dist – Bargarh, Odisha at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

45. Akshay Kumar Sardiwal aged about 26 years son of Jagdish Sardiwal At – Akshdeep House, C.o-Silmagara Kumaro Ka Mohalla, At Merta City, PO Nagaur, Dist – Nagaru, Rajasthan at present residing at MIG – 218, AIIMS, Nagar, Patrapada, Khandagiri, Bhubaneswar, Dist – Khurda.

46. Manjari Kak aged about 28 years D/o Murali Kak At Plot No. 165, Majhapara, PO-Majhapara, Dist – Sundergarh, Odisha at present residing At – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

47. Jaykrishna Sahu aged about 26 years son of Hrudananda Sahu at present residing At C/o Ramesh Ch. Routray – Sijua, PO – Sarakantrara, PS- Khandagiri, Dist – Khurda.

.....Applicant

VERSUS

1. Union of India represented through its Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi – 110 011.

2. All India Institute of Medical Sciences (AIIMS), represented through its Director, At – Sijua, PO – Dumduma, Bhubaneswar, Dist – Khurda.
3. The Deputy Director (Administration), All India Institute of Medical Sciences (AIIMS), At – Sijua, PO – Dumduma, Bhubaneswar, Dist – Khurda - 751019
4. The Administrative Officer, All India Institute of Medical Sciences (AIIMS), At – Sijua, PO – Dumduma, Bhubaneswar, Dist – Khurda – 751 019.
5. Assistant Administrative Officer, All India Institute of Medical Sciences (AIIMS), At – Sijua, PO – Dumduma, Bhubaneswar, Dist – Khurda – 751 019.
6. The Medical Superintendent, All India Institute of Medical Sciences (AIIMS), At – Sijua, PO – Dumduma, Bhubaneswar, Dist – Khurda – 751 019.

.....Respondents.

For the applicant : Mr. J. Pattnaik, advocate.

Mr. B. Mohanty

For the respondents: Mr. J. K. Nayak, advocate.

IN O.A NO.178 of 2018

1. Madhusmita Mandal, aged about 28 years, D/O-Uday Kumar Mandal of Vill/PO-Baincha, Dist-Bhadrak.
2. Smt. Padmini Paikaray, aged about 30 years, W/O-HimansuBhusan Pradhan of LIG-56, Kalinga Vihar, Patrapada, Bhubaneswar, Dist-Khurda.
3. AbhisekParida, aged about 28 years, S/O-Madan Mohan Parida of Plot No.-227, Phase-1, Dumduma Housing Board Colony, PS-Khndagiri, Bhubaneswar, Dist-Khurda.
4. Sarita Soreng, aged about 30 years, D/O-PhilmonSoreng of Plot No.231/2527, SriloknathVihar, AIIMS Nagar, Patrapada, Bhubaneswar, Dist-Khurda.
5. T. Drushila, aged about 28 years, D/O-T. Jackson, residing at Plot No.- 222/223, Ashok Datra Near Subhadra Appartment, Bhubaneswar, Dist-Khurda.
6. Samita Sahoo, aged about 26 years, D/O-Pramod Kumar Sahoo of Medical Colony, PO-DNK Chown, Malkangiri.
7. Sarada Prasad Mallick, aged about 31 years, S/O-Bidyadhar Mallick, C/O-Arun Kumar Dash, Plot No-38/625, Lane-1, Road 2 Jagannath Vihar, Baramunda, Bhubaneswar, Dist-Khurda.
8. PhulaMohanta, aged about 29 years, C/O-SuabasMohanta, AT-Shantipur, PO-Hatigarh, PS-Raibania, Dist-Balasore, Odisha

9. Rosalin Deep, aged about 29 years, W/O-Julius Benjamix, AT/PO-Diptipur, Dist-Baragarh.
- 10.10. Swaranalata Panda, aged about 30 years, W/O Bibhuranjan Swain of Khandiabandhi, PO-Chandikhole, Via-Haridaspur, Dist-Jajpur, Odisha,
11. Susmita Panda, aged about 29 years, C/O-Rabinarayan Panda, AT/PO-Sangalai, PS-Pipili, Dist-Puri.
12. Geetanjali Sethy, aged about 30 years, AT/PO, Mandasahi, Dist-Jagatsinghpur.
13. Ranjita Baskey, aged about 26 years, D/O Fagu Baskey, AT-Chhata Begunia, PO-Mahuduma, PS Raibania, Dist-Balasore.
14. Snehalata Nayak, aged about 29 years, D/O-Kedarnath Nayak, AT/PO-Kanheipur, Via-Khallikote, Dist-Ganjam.
15. Jyotsnarani Sahu, aged about 27 years, C/O-Anam Charan Sahu, AT/PO-Padamapur, PS-Anandapur, Dist-Keonjhar.
16. Madhusmita Panigrahi, aged about 25 years, D/O-Rajendra Kumar Panigrahi, AT-College Totta Street, PO-Palasara, Dist-Ganjam.
- 17.17. Nirupama Jena, aged about 29 years, D/O Hemanta Kumar Jena, Plot No.-1, At-Baramunda, Boisahi Road, PO-Delta, Bhubaneswar, Dist-Khurda.
18. Narmada Rana, aged about 25 years, C/O-Madhusudan Rana, AT/PO-Naraharipur, Via-Remuna, Dist-Balasore.
19. Preetirani Pradhan, aged about 28 years, D/O-Alok Pradhan, At-Ramchandrapur, Near R.I. Office, PO-Jatani, Dist-Khurda.
20. Binapani Biswal, aged about 26 years, D/O-Binod Biswal, At-Mendhapada, PO-Patamundir, PS-Parjaung, Dist-Dhenkanal.
21. Doddi Venkata Lakshmi, aged about 28 years, D/O Raja Rao of House No.-16-391 Yedla Street, Chodavarum (MD PO) Vizag, Andhra Pradesh.
22. Shilpa Dipali Khakha, aged about 27 years, D/O Irkan Khakha of CIP Warder lane Kanke, PO/PS-Kanke, Dist, Ranchi, Jharkhand.
23. Jai Prakash Meena, aged about 27 years, S/O-K.R. Meena of V.P.O. Gangithal, Jahazpur, Dist Bhilwara, Rajasthan.
24. V. Kranthi Kumar Reddy, aged about 28 years, S/o-V. Narayan Reddy of Vill-Alluru (Bodri Bazar) PO-Dudduru, Veerulapadu, Dist-Krishana, Andhra Pradesh
25. Puspendra Kumar Bairwa, aged about 25 years, S/o-Naval Kishore Bairwa of Vill-Balwantpur, Kherla, Dist-Karauli, Sapotra, Rajasthan.
26. Gurram Ram Reddy, aged about 26 years, S/O G. Malla Reddy of H. No.-1-88, C.O. Thabballa Pally Village, At-Yacharammandal, PO-Kothapally, Dist-Ranga Reddy, Hyderabad, Telengana.
27. Mojiram Gurjar, aged about 24 years, S/O-Shiv Singh, Gurjar of 19, Peepalpura, Karauli, Rajasthan.
28. Umesh Kumawat, aged about 25 years, S/O-Bajaranglal Kumawat of Ward No.-5, PO-Nawa City, Nawa, Nagaur, Nawacity Lsg. Rajasthan.

29. Vikash Singh Chouhan, aged about 25 years, S/O Prabhu Dayal Chouhan of 179, Hanumanji Ki Gali, Badnor, Bhilwara, Rajasthan.

30. Suraj Sardiwala, aged about 27 years, S/O Munna Ram, 166 SilmagaraDerani Road, Merta City, Dist-Nagaur, Rajasthan.

31. Karamveer Singh Rathore, aged about 27 years, S/O Shravan Sinah Rathore of Sapanda House, Pratap Nagar, Behind Ice Factory, Ajmeer Road, Kekri, Dist Ajmer, Rajasthan.

32. Urmila Tudu, aged about 30 years, C/o-SankhoTudu, At-Haludbani, PO-Tata Nagar, PS-Parsudih, Jharkhand.

33. Babulal Kudi, aged about 28 years, S/O-Jeevan Ram Kudi of KabriDungri, Sherabatpura, Mundota, Jaipur, Rajasthan.

34. Devilal Nehra aged about 25 years, S/O Govind Ram Nehera of Nehroka Bass, Vill/PO-Bhadwa, KishangaryhRenwal, Dist-Jaipur, Rajasthan.

35. Renu Roshan Ekka, aged about 30 years, C/O-Marcus Ekka of Vill-Sale PO-Durup, PS-Mahuadanr, Jharkhand.

36. Surendra Kumar, aged about 25 years, S/O-Bhanaram of 330, Dhani Mahala, Babusar, Sikar, Rajasthan.

37. Bandana Dey, aged about 26 years, W/O-BidyasParida of House No-3/185, Yanakandla(U), Banaganapalli, Kurnool(P), AndhraPradesh.

38. Bhana Ram Regar, aged about 28 years, S/O Unkar Ram Regar, AT/PO-Merta City, Nagaur, Rajasthan.

39. Manish Kumar Gupta, aged about 25 years, S/o Ramavtar, Gupta Near of Rajgirish Hospital, Sjheetala Colony, Hindaun City, Karauli, Rajasthan.

40. Surendra Huda, aged about 26 years, S/o Rameshwarlal Huda of Nagaur, PO-Soneli, Nagaur, Rajasthan.

41. Dinesh Kumar Choudhury, aged about 27 years, Staying at Sijua, PO-Dumuduma, Bhubaneswar, Dist-Khurda.

42. DharamveerGurjar, aged about 26 years, C/O Bhola Ram Gurjar of Vill-Kakaranachhota, PO-Sothana, Virat Nagar, Dist-Jaipur, Rajasthan.

43. Kishan Singh , aged about 25 years, S/O-Vijay Sing of Plot No.352, AT-Pratap Nagar Vistar, PO-Vaidh ji ka Chouraha, Muralipura, Jaipur, Rajasthan.

44. Devendra Kumar Shyoran, aged about 28 years of Vill-Malsisar, Via-Alsisar, Haripura, Dist-Jhunjhunnu, Rajasthan.

.....Applicant

VERSUS

1. Union of India represented through its Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At-Sijua, PO-Dumuduma, Bhubaneswar, Khurda.

3. The Deputy Director (Administration), All India Institute of Medical Science, Bhubnaneswar, Sijua, Dumuduma, Po-Bhubaneswar, Dist-khurd751019
4. The Administrative Officer, All India Institute of Medical Science, Bhubnaneswar, Sijua, Dumuduma, Po-Bhubaneswar, Dist-khurd751019

.....Respondents.

For the applicant : Mr. D.P. Dhalsamant

For the respondents: Mr. S.B. Mohanty

IN O.A NO.263 of 2018

1. Debasmita Mandal, aged about 25 years, D/O Chandrasekhar Mandal of Vill/PO-Balimunda, Dist-Bhadrak.
2. Padmini Paikaray, aged about 28 years, W/O- Sri Himansu Pradhan, At/PO-Gopalpur, PS-Mahanga, Via-NischintaChoili, Cuttack, Odisha.
3. Lazmi Sivan, aged about 28 years, w/O-Sujeesh Anand, C/O-SachidanandaRoutray of House No.6/80, Patrapada, Bhubaneswar, Khurda.
4. Pravabati Sahoo, aged about 29 years, C/O-Purnachandra Sahoo, AT-Nayapatana, PO-Chhatia, Jajpur, Odisha.
5. Bhagabati Nayak, aged about 32 years, C/C-Chandra Mohan Nayak, AT-Hetkhamar, PO-Dholpada, Dist-Deogarh, Odisha.
6. Jayesh K, aged about 26 years, C/O-Chandu, Plot No./House No.Koottasseri, AT/PO-Cheekode, Dist-Mallapuram, Kerala.
7. Rahul Yadav, aged about 26 years, S/o-Sri Iswar Lal Yadav of Vill-Khirini Pathak Road, PO-Jhotwara, Jaipur, Rajasthan.
8. Kishanlal Tiwari, aged about 28 years, S/O-Ganesh lal Tiwari of Vill-Soniyana, Shada, PO-Soniyana, Dist-Bhilwara, Rajasthan.
9. Shankar lal Choudhury, aged about 26 years, S/O-Gopal lal, AT/PO-Bhadwa, Jaipur, Rajasthan.
10. Aashoo Singh, aged about 27 years, S/O-Ladoo Singh of Vill/Po-Siwada Tehsil Chitalwana, Dist-Jalore, Jaipur, Rajasthan.
11. Nihal Singh Guajar, aged about 24 years, S/O-MathureshGuajar of Vill-Haripura, PO-Anantwara, Dist-Dausa, Bandikui, Rajasthan.
12. Ravi Pahadiya, aged about 28 years, C/O-Shankar Lal Pahadiya of Plot No.114, YourvrajVihar Colony, Near Lotus House, V.K.I Area, Jaipur, Rajasthan.
13. Birbal Singh Meena, aged about 24 years, S/O-Ramanidas Meena, Vill-Heensla, PO-Saleta, Alwar, Rajasthan.

Applicants from 06 to 13 are all staying At- Sijua, Po-Dumduma, Bhubaneswar, Dist-Khurda.

(All the applicants are presently working as Staff Nurse Grade-II in the All India Institute of Medical Sciences, Bhubaneswar, At-Sijua, PO-Dumuduma, Bhubaneswar, Dist-Khurda.)

.....Applicants

VERSUS

1. Union of India represented through its Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At-Sijua, PO-Dumuduma, Bhubaneswar, Khurda.
3. Deputy Director (Administration), All India Institute of Medical Sciences, Bhubnaneswar, Sijua, Dumuduma, Bhubaneswar, Dist-khurd-751019
4. Administrative Officer, All India Institute of Medical Sciences, Bhubnaneswar, Sijua, Dumuduma, Bhubaneswar, Dist-khurd-751019.
5. Assistant Administrative Officer, All India Institute of Medical Sciences, Bhubnaneswar, Sijua, Dumuduma, Bhubaneswar, Dist-khurd-751019

.....Respondents.

For the applicant : Mr. D.P. Dhalsamant

For the respondents: Mr. J.K. Nayak

IN O.A NO.570 of 2018

1. Mahesh Rajpurohit, aged about 29 years, S/O-Rajendra Prasad Rajpurohit of Flot No.107, S.R. residency, UdayagiriVihar, Patrapada, Bhubaneswar.
2. Bhanwar Singh, aged about 25 years, S/O-Push Singh, Flat No.107, S.R. residency, UdayagiriVihar, Patrapada Bhubaneswar.
3. Gulab, aged about 31 years, S/O-Sundar Lal of Plot No.-284(P) Aiginia, Patrapada, Bhubaneswar.
4. Narendra Verma, aged about 27 years, S/O-Sitaram Verma of Qr. No.1, Kunjan Garden Near-Sia Temple, Patrapada, Bhubaneswar.
5. Sangeeta Tani, aged about 30 years, D/O-MarshalanTani of Plot No.533, BSNL Telephone Office Lane, Barmunda, Bhubaneswar.
6. Juber Khan, aged about 25 years, S/o-Riyaj Ahmad
7. Shik Meera Saheb, aged about 29 years, S/o Sydu Saheb.
8. A. Raventh Kumar, aged about 29 years, S/o-A. Kapiraju
9. Mahendra Kumar Sini, aged about 28 years, S/O Babulal Saini.
10. Himanshu Sharma, aged about 29 years, S/o-Suresh Kumar Sharma

(Applicant No.6 to 10 are resident of Sijua, Patrapada, PS-Dumduma, Bhubaneswar, Dist-Khurda)

(All the applicants are presently working as Staff Nurse Grade-II in the All India Institute of Medical Sciences, Bhubaneswar, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda.)

.....Applicants

VERSUS

1. Union of India represented through its Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At-Sijua, PO-Dumduma, Bhubaneswar, Khurda-751019.
3. Deputy Director, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Khurda-751019.
4. Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Khurda-751019.
5. Assistant Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Khurda-751019.
6. Medical Superintendent, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Khurda-751019.

.....Respondents.

For the applicant : Mr. D.P. Dhalsamant

For the respondents: Mr. G.R. Verma

IN O.A NO.571 of 2018

1. Ram Prakash Bochlya, aged about 26 years, S/O-SanwarmalBochlya of Flat No.2014, S.R. residency, Patrapada, Bhubaneswar.
2. Javed Ali, aged about 29 years, S/O Ishak Khan of Plot No.-364/2328, Alugadi, Near-Techno School, Patrapada, Bhubaneswar.
3. Pawan Kumar Chouchan, aged about 28 years, S/O Bhuraram Chouhan of Qr. No.-1 Near Sai Temple, Kunjan garden, UdayagiriVihar, Patrapada, Bhubaneswar.

(All the applicants are presently working as Staff Nurse Grade-II in the All India Institute of Medical Sciences, Bhubaneswar, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda.)

.....Applicants

VERSUS

1. Union of India represented through the Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
3. Deputy Director, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
4. Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
5. Assistant Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
6. Medical Superintendent, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.

.....Respondents.

7.

For the applicant : Mr. D.P. Dhalsamant

For the respondents : Mr. M.R. Mohanty

IN O.A NO.626 of 2018

1. Nibedita Mishra, aged about 27 years, D/O-Abhimanyu Mishra, At-Khajuripada, PO-Nariso, PS-Niali, Dist-Khurda, presently staying at Sijua, Khandagiri, Bhubaneswar.
2. M. Prudvi Yadav, aged about 28 years, S/O-M. Nagaraja, C/O-Hurry, S.B.-14, Sridev Housing Complex, Patrapada, Bhubaneswar.
3. PitambarGurjar, aged about 29 years, S/O-Jodha Ram, presently staying at Sijua, Khandagiri, Bhubaneswar.
4. Vinod Kumar Verma, aged about 29 years, S/O-Nanagram Verma, presently staying at Sijua, Khandagiri, Bhubaneswar.
5. A. Vasavi Mounika, aged about 23 years, D/O-Annabathula Satya Vijay Kumar, presently staying at Sijua, Khandagiri, Bhubaneswar.
6. Sasmita Sahoo, aged about 32 years, D/O. Muktikanta Sahoo, AT/PO-Rengali Dam Site, Via-Talcher, Dist-Angul.
7. Kapil Sandip, S/O Deep Narayan, presently staying at Sijua, Khandagiri, Bhubaneswar.
8. NutanGuria, aged about 29 years, S/O-SosanGuria, presently staying at Plot No.-44, Paramila Niwas, Sijua, PO-Saakantara, Dist-Khurda.
9. DevranjanDariya, aged about 28 years, S/o-SurajmalDariya, presently staying at MJG-65, 1st Floor, UdayagiriVihar, Patrapara, Bhubaneswar.
10. Bernit. J, aged about 30 years, W/O-Bernikamalzen C.J., presently staying at Sijua, Khandagiri, Bhubaneswar.

11. Hanuman Singh Jat, aged about 25 years, S/O-Laxman Singh, presently staying at Sijua, Khandagiri, Bhubaneswar.
12. Mercy Sheeba Toppo, aged about 29 years, D/O-R.U. Toppo, presently staying at Rajiv Nagar, MIG-54, Iginia, Khandagiri, Bhubaneswar.

(All the applicants are presently working as Staff Nurse Grade-II in the All India Institute of Medical Sciences, Bhubaneswar, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda.)

.....Applicants
VERSUS

1. Union of India represented through the Secretary to Government of India, Ministry of Health and Family Welfare (PMSSY) Division, Nirman Bhawan, Maulana Azad Road, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
3. Deputy Director, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
4. Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
5. Assistant Administrative Officer, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.
6. Medical Superintendent, All India Institute of Medical Sciences, At-Sijua, PO-Dumduma, Bhubaneswar, Dist-Khurda-751019.

.....Respondents.

For the applicant : Mr. D.P. Dhalsamant

For the respondents: Mr. S.B. Mohanty

IN O.A NO.26 of 2019

PravatiHota, aged about 44 years, W/o Prakash Chandra Satpathy, At-Barala, PO-Kalapada, Via-Bentkar, P.S.-Cuttack Sadar, Dist-Cuttack. At present residing at Plot No.107(P), Acharya Vihar, P.O.-Acharya Vihar, P.S.-Saheed Nagar, Bhubaneswar, Dist-Khurda and at present working as Asst. Nursing Superintendent, All India Institute of Medical Science, Bhubaneswar.

.....Applicant
VERSUS

1. Union of India represented through the Secretary, Ministry of Health and Family Welfare, Government of India, Room No.348; 'A' Wing, Nirman Bhavan, New Delhi-110011.
2. All India Institute of Medical Sciences (AIIMS), represented through it's Director, At/Po-Sijua, Patrapada, P.S.-Khandagiri, Bhubaneswar-751019.

3. The Administrative Officer, All India Institute of Medical Sciences, At/Po-Sijua, Patrapada, P.S.-Khandagiri, Bhubaneswar-751019, OdishaRespondents.

For the applicant : Mr. T. K. Mishra

For the respondents: Mr. P.R.J. Dash

Heard & reserved on : 16.12.2020

Order on :19.05.2021

O R D E R

Per Hon'ble Mr. Swarup Kumar Mishra, Member (J):-

Since the relief sought for in all the OAs are similar, they are being disposed of vide common order and the factual aspects of OA No. 239/2018 is only discussed here. The applicants who were appointed as contractual nurses in AIIMS, Bhubaneswar are challenging the advertisement dated 05.05.2017 & 02.11.2017 (Annexure A/16 series) by which respondents have invited online application for filling up post on direct recruitment basis. The applicants have approached this Tribunal by filing the Original Application seeking the following relief(s):-

- i. *The Original application may be allowed.*
- ii. *The operation of Annexure A/16 issued by the Respondent No. 3 in respect of the posts held by the applicants may be declared as illegal,*
- iii. *The Respondents may be directed not to continue with the follow up action on Annexure A/17 as against the posts in which the applicants are continuing.*
- iv. *The Respondents may be directed to regularize the services of the applicants and to extend the consequential benefits.*

v. *Such other order(s)/Direction(s) may be given in giving complete relief to the applicants.*

2. The brief of the case as inter alia averred by the applicants in the OA was that vide letter dated 30.04.2013, Ministry of Health and Family Welfare (PMSSY Division) intimated all concerned of AIIMS, Bhubaneswar that creation of posts has already been recommended and conveyed its approval for filling up 1145 number of posts in first phase vide letter dated 04.04.2013 and 22.04.2013. A selection committee was constituted for the purpose of making recommendation to the appointing authority and qualification, experience and eligibility conditions were declared to be as per rules applicable to AIIMS, New Delhi. Reservations as per Govt. of India guidelines were also directed to be followed. The selection committee was to hold written tests, interviews and other process of selection and there was no indication of contractual appointment rather the authority wanted the AIIMS to explore the possibility of going for regular recruitment. The applicants submitted that though the applicants were subjected to regular process of selection, but they were nomenclature as contract appointees.

3. The applicant submitted that vide advertisement dated 30.10.2014 (Annexure A/5), 200 posts of Grade II Staff Nurse were to be filled up and pursuant to that advertisement, result was published on 19.03.2015 and 100 staff nurse Grade II were appointed and thereafter on 14.09.2015 the respondents appointed 27 candidates as Staff Nurse Grade II. Again on 13.01.2016 and 05.03.2016, the respondents appointed 25 and 20 candidates respectively as Staff Nurse Grade II. The applicants submitted that vide notification dated 15.06.2016 (Annexure A/6) applications were invited online for appointment against the posts of Staff Nurse Grade I and Staff Nurse Grade – II on contract basis for a period of eleven months only. As per the said notification in the process of selection, the applicants were subjected to written tests and

successful candidates of written tests were directed to face one personal interview. After the process of selection was over, the competent authority approved to issue offer of appointment in favour of 27 candidates on contractual basis from the merit list vide order dated 14.09.2015 and 25 candidates vide letter dated 13.01.2016.

4. The applicants submitted that as against the second process of selection as against advertisement dated 15.06.2016, the administrative officer on 29.10.2016 (Annexure A/10) released the provisional result making it subject to fulfilment of eligibility criteria and vide notice dated 23.12.2013 (A/11) 50 candidates were released and vide notification dated 28.04.2017 (A/12) and 19.09.2017 (A/13) 100 names were recommended for appointment. The applicants submitted that appointment orders (Annexure A/14 series) was issued to the applicant for the post of Staff Nurse Gr.II and Gr. I but on contract basis for a period of 11 months with certain terms and conditions. The applicants submitted that services of all the applicants have been extended from time to time after completion of 11 months.

5. The applicants further submitted that the respondents vide advertisement dated 05.05.2017 (Annexure A/16 series) invited on line applications for filling up 800 posts of Staff Nurse Grade I and 127 posts of Grade II. A re-advertisement was issued on 02.11.2017 to fill up the posts as per revised recruitment rules. The applicants claim that since they were continuing against sanctioned vacant posts after having come out successful in a process of recruitment those posts ought to have been excluded from the process of recruitment and the applicants ought to have been considered for regularization against the post of Staff Nurse Gr-II. The applicants submitted a combined representation dated 11.12.2017 (Annexure A/17 series) to Director AIIMS, Bhubaneswar to regularize their services as Staff Nurse grade I and Grade II.

6. The applicants submitted that Respondent No. 5 vide notice dated 30.01.2018 (Annexure A/18) declared conduct of computer based test/exam for

the post of Staff Nurse Grade I and Grade II and since the applicants were ensured that though they have been asked to appear the recruitment test once against but they will all be regularized in their posts, they did not challenge the process of recruitment but when the authority concerned gave the notice for computer based test, the applicants finding no other way, filed the present OA.

7. The applicants have taken the following grounds for relief prayed for:

- a) For that the applicants are appointed as Staff Nurse Gr-II contractual after going through the process of selection as per the Recruitment Rules, therefore their service has to be regularized as they have already continuing in their service last four to five years.
- b) For that the applicants are doing similar like of job and undertaking same responsibilities are their counterparts doing in the regular establishments. Therefore their service has to be regularized taking into account the experience they have gained by serving at AIIMS, Bhubaneswar.
- c) For that these applicants have already completed four to five years of service and selected through a process of selection, therefore their service should have been regularized but the authority without considering the same and without regularizing the present applicants, published a notification for regular recruitment for 800 vacancies which is not only illegal but only contrary to the settled principle of law.
- d) For that these applicants have already completed four to five years of service and gain much experience in the post. When the AIIMS, Bhubaneswar was established these applicants are initially appointed of the AIIMS and they have worked day and night to improve the standard of the AIIMS, Bhubaneswar and they have also served the patients very honestly and sincerely, therefore their service should have regularized in remaining vacant posts.
- e) For that there are enough number of vacancies to accommodate these applicants for absorption in the regular posts but the authority without

considering the same, published the advertisement which is not only illegal but also contrary to law.

8. The respondents in their counter inter alia averred that the applicants were recruited against advertisement dated 30.10.2014 and 15.06.2016 on contractual basis for a period of 11 months and as per the provision of letter dated 06.08.2013 which provides for engagement on contractual basis. While issuing offer of appointments to the applicants, it was communicated that they are engaged on contractual basis initially for a period of 11 months subject to further extension of tenure as approved by the competent authority. The advertisement as issued against which they were appointed also stated that the post is on contractual basis, therefore the averment made by the applicant that they have been nomenclature as contractual employees is not factually correct when the advertisement and offer of appointment have clearly mentioned that the post is on contractual basis. The offer of appointment further stipulates that “this appointment does not entitle them to any regular appointment at AIIMS Bhubaneswar in any manner”. The respondents further submitted that as per the advertisement for recruitment of 800 nursing officer/staff nurse Gr. II at para 8 clause (iv) it is specifically mentioned that “all the contractual employees of AIIMS Bhubaneswar who are engaged by AIIMS Bhubaneswar will be granted age relaxation to the extent of their period of continuous contractual engagement in AIIMS Bhubaneswar against equivalent post or up to maximum period of five years whichever is less. However this age relaxation is admissible for one time only.” In response to that many of the applicants have applied against the said advertisement on their sweet will and many of the contractual employees have been applying for regular posts in other organization.

9. The applicant in their rejoinder inter alia averred that there is no provision/stipulation in the letter dated 06.08.2013 regarding contractual appointment to post of staff nurse, rather it clearly stipulates for filling up of

additional 2936 nos. of sanctioned posts out of which 726 were meant for Staff Nurse Grade – II. The applicants submitted that there is no such provision in the AIIMS Act, Rules & Regulations with regard to contractual appointments, rather the authorities of AIIMS, Bhubaneswar time & again have not adhered/carried out the orders dated 04.04.2013, 22.04.2013, 30.04.2013 and 06.08.2013. The applicants submitted that the authorities of AIIMS have already regularized total 200 nos of Staff Nurse – II recruited pursuant to advertisement dated 13.07.2013 (Annexure 21) wherein the Respondent No. 2 has also absorbed 20 nos. of contractual employees out of 30 in the post of Sister Grade – II. But the Respondent No. 2 has discriminated the present applicants in not regularizing their service in the post of Sister Grade – II though there are sufficient sanctioned vacancies i.e. 1326 posts. The applicant submitted that as per clause – 10 (j) of letter dated 06.08.2013 under Annexure A/2 of the OA clearly stipulates regarding recommendation of “a person” by the adhoc committee for selection to engage on contractual basis, the same may be recommended only against a regular post. But here in this case the respondents have appointed 421 persons on contractual basis which is self contradictory to their reply. The applicants further submitted that the AIIMS, Jodhpur has issued notification regarding absorption of contractual nursing staff wherein it was mentioned that the matter of absorption of contractual nursing is under consideration and adequate vacancies have been kept aside for the said purpose. Further the department related Standing Committee on Health and Family Welfare reviewed the progress of different AIIMS institutions and also taken a decision regarding regularization of the contractual employees vide proceeding dated 28.08.2018 (Annexure A/22 series).

10. The applicant in their addition verification has inter alia submitted that as per the letter dated 04.04.2013 & 06.08.2013, a total 1326 nos (600+726) of posts of staff nurse Grade –II have been sanction for regular recruitment. But the respondents have filled up only 200 nos staff nurse posts out of 1326

sanctioned posts in December 2013 and the recruitment of the remaining sanctioned regular 1126 nos of post of Staff Nurse gr II by the time of filing of the original applicant. The respondents have advertisement for recruitment of 800 posts of Staff Nurse – II vide advertisement under Annexure A/16 and if all such 800 posts would be filled up then there are 326 regular posts vacant for regularization of services of the applicants. The applicants further submitted that Respondent No. 1 vide letter dated 27.06.2013 (Annexure A/23) have directed to all concern of AIIMS Bhubaneswar that human resources recruitment must be done in a time bound manner and that as per DOPT office memorandum dated 12.04.2017 (Annexure A/24) it is stated that posts sanctioned for a specific purpose in an organization may not be diverted for another purpose at the same or different station. The applicants further submitted that in 150th meeting held on 28.03.2014 Governing Body of AIIMS, New Delhi unanimously approved the regularization of the services of 193 employees approved on adhoc basis in Group B and Group C categories of the posts at AIIMS, New Delhi and further vide letter dated 30.06.2014 (Annexure A/25 series), AIIMS, New Delhi has also regularized the service of 2 employees working on adhoc basis in Group B & C categories.

11. The respondents have filed objection to the additional affidavit and have inter alia averred that AIIMS Bhubaneswar is an autonomous body under Ministry of Health and Family Welfare, Govt of India and have its own Governing Body and Institute Body, for policy making and internal administration. No such proposal for regularization of services of Contractual Staff Nurses engaged at AIIMS, Bhubaneswar has got approved by the Governing Body/Institute Body of AIIMS, Bhubaneswar. Further the facts and circumstances of the case of regularization of contractual nurses Gr. II in AIIMS, New Delhi who were continuously engaged there for 10 to 15 years as on 2014 and the case of the applicants is different from the case of AIIMS, New Delhi and therefore the same are not legally tenable in this case. The

respondents have further cited the case of AIIMS, Bhopal wherein in a similar case, CAT, Jablapur Bench in OA No. 83/2018 & 183/2019 vide common order dated 30.04.2019 had dismissed the prayer of the applicants in the said OA for regularization of service.

12. Heard learned counsel for both the sides and have carefully gone through their pleadings, materials on records and citations relied upon by them.

13. Admittedly the applicants had applied for contractual posts advertised vide Annexure A/5 and they have been appointed on contractual basis for a period of 11 months. It is also specifically mentioned in the offer of appointment that its on contract basis for 11 months and that the appointment does not entitle the applicant to any regular appointment unless they are selected for appointment on a regular appointment on regular basis. The applicants have also been given age relaxation as per rules while recruitment through regular direct recruitment was taken up by the respondents. Few of the applicants have applied and some have got selected too.

14. The matter of regularization of contractual/temporary/causal/adhoc employees have been dealt with various courts. Hon'ble Apex Court in the case of Secretary, State of Karnataka and others vs. Uma Devi (3) and others, (2006) 4 SCC 1 has held the absorption, regularization or permanent continuance of temporary, contractual, casual, dailywage or ad hoc employees appointed/recruited and continued for long in public employment, dehors the constitutional scheme of public employment. Hon'ble Apex Court in the same judgment observed that:

36. While directing that appointments, temporary or casual, be regularized or made permanent, courts are swayed by the fact that the concerned person has worked for some time and in some cases for a considerable length of time. It is not as if the person who accepts an engagement either temporary or casual in nature, is not aware of the nature of his employment. He accepts the employment with eyes open. It may be true that he is not in a position to bargain -- not at arms length -- since he might have been searching for some employment so as to eke out his livelihood and accepts whatever he gets. But

on that ground alone, it would not be appropriate to jettison the constitutional scheme of appointment and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so, it will be creating another mode of public appointment which is not permissible. If the court were to void a contractual employment of this nature on the ground that the parties were not having equal bargaining power, that too would not enable the court to grant any relief to that employee. A total embargo on such casual or temporary employment is not possible, given the exigencies of administration and if imposed, would only mean that some people who at least get employment temporarily, contractually or casually, would not be getting even that employment when securing of such employment brings at least some succor to them. After all, innumerable citizens of our vast country are in search of employment and one is not compelled to accept a casual or temporary employment if one is not inclined to go in for such an employment. It is in that context that one has to proceed on the basis that the employment was accepted fully knowing the nature of it and the consequences flowing from it. In other words, even while accepting the employment, the person concerned knows the nature of his employment. It is not an appointment to a post in the real sense of the term. The claim acquired by him in the post in which he is temporarily employed or the interest in that post cannot be considered to be of such a magnitude as to enable the giving up of the procedure established, for making regular appointments to available posts in the services of the State. The argument that since one has been working for some time in the post, it will not be just to discontinue him, even though he was aware of the nature of the employment when he first took it up, is not one that would enable the jettisoning of the procedure established by law for public employment and would have to fail when tested on the touchstone of constitutionality and equality of opportunity enshrined in Article 14 of the Constitution of India.

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38. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make

such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.

15. CAT, Jabalpur Bench in vide common order dated 30.04.2019 in OA No. 83/2018 & 183/2019 had held:

19. It is also noted that the advertisement for regular appointment (Annexure A-1) was issued after Recruitment Rules were framed on 21.08.2015 (Annexure R-1). The applicants have been given one time age relaxation. Thus, none of the applicants have been denied any opportunity to appear against the said advertised post. We find no merit in the argument of the learned counsel for the applicant that since the applicants have already been working for the last several years, they would not be able to compete with graduates coming fresh out of Universities.

20. In view of the foregoing, we do not find any merit in this Original Application.

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23. In the result, both the Original Applications are dismissed. No costs.

16. In view of the facts and law discussed above, we do not find any ground to interfere in the matter. However, we are of the view that nurses help in the speedy recovery of patients and are a vital resource for hospitals in as much as they are the only resources available 24/7 for catering to patients needs. They are directly involved in all aspects of hospital service quality, be it in the form of monitoring patients recovery beside medication management or assistance with surgeries and other major operations. In some situations they are responsible for performing immediate interventions to prevent medical complications. They are on the frontlines of administering and evaluating treatment, and provide invaluable emotional support as they are best placed to understand the complexities and implications of having a serious illness. Considering the pandemic situation due to Covid 19 all over the country and the contribution of all health professionals like the applicants, who are serving at

the time of need, the authorities concerned are impressed upon, as a matter of exception, to sympathetically consider the cases of the applicants by way of setting up a high level committee, with Secretary, Ministry of Health & Family Welfare, Govt. of India as one of the member, for considering one time exemption for regularization of the applicants. The entire exercise of setting up the high level committee and taking a decision on regularization, as one time exemption of the applicants may be taken within a period of 6 months from the date of receipt of copy of this order. It is also directed that the services of the applicants are not to be disturbed if the posts they are working have not been filled up and till a decision by high level committee is not taken.

17. With the above observation the OAs are disposed of but in the circumstances without any order to cost.

18. The MAs too are accordingly disposed of.

(TARUN SHRIDHAR)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)

(csk)