2019 INSC 1157

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7879 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 11885 OF 2012)

THE STATE OF BIHAR & ORS. .....APPELLANT(S)

VERSUS

DEVENDRA SHARMA .....RESPONDENT(S)

W I T H

CIVIL APPEAL NO. 7883 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 24749 OF 2012)

CIVIL APPEAL NO. 7884 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 24753 OF 2012)

CIVIL APPEAL NO. 7880 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 20033 OF 2012)

CIVIL APPEAL NO. 7881 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 20036 OF 2012)

CIVIL APPEAL NO. 7882 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 20038 OF 2012)

CIVIL APPEAL NO. 7886 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 157 OF 2014)

CIVIL APPEAL NO. 7885 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 152 OF 2014)

CIVIL APPEAL NO. 7887 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2192 OF 2014)

CIVIL APPEAL NO. 7888 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2193 OF 2014)

CIVIL APPEAL NO. 7889 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2191 OF 2014)

CIVIL APPEAL NO. 7890 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2042 OF 2014)

CIVIL APPEAL NO. 7891 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 22300 OF 2014)

CIVIL APPEAL NO. 7892 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 28306 OF 2014)

CIVIL APPEAL NO. 7907 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 32024 OF 2014)

CIVIL APPEAL NOS. 7893-7900 OF 2019
(ARISING OUT OF SLP (CIVIL) NOS. 29303-29310 OF 2014)

CIVIL APPEAL NO. 7901 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 29399 OF 2014)

CIVIL APPEAL NO. 7906 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 32033 OF 2014)

CIVIL APPEAL NOS. 7902-7903 OF 2019
(ARISING OUT OF SLP (CIVIL) NOS. 29940-29941 OF 2014)

CIVIL APPEAL NO. 7904 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 30704 OF 2014)

CIVIL APPEAL NO. 7905 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 31218 OF 2014)

CIVIL APPEAL NOS. 7911-7913 OF 2019
(ARISING OUT OF SLP (CIVIL) NOS. 34818-34820 OF 2014)

CIVIL APPEAL NO. 7908 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 33708 OF 2014)

CIVIL APPEAL NO. 7910 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 34667 OF 2014)

CIVIL APPEAL NO. 7909 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 34668 OF 2014)

CIVIL APPEAL NO. 7611 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 35375 OF 2014)

CIVIL APPEAL NO. 7919 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 3280 OF 2015)

CIVIL APPEAL NO. 7914 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 36755 OF 2014)

CIVIL APPEAL NOS. 7915-7916 OF 2019
(ARISING OUT OF SLP (CIVIL) NOS. 923-924 OF 2015)

CIVIL APPEAL NO. 7933 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 9534 OF 2016)

CIVIL APPEAL NO. 7932 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 31452 OF 2015)

CIVIL APPEAL NO. 7917 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2573 OF 2015)

CIVIL APPEAL NO. 7920 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 3306 OF 2015)

CIVIL APPEAL NO. 7918 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 2755 OF 2015)

CIVIL APPEAL NO. 7921 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 5983 OF 2015)

CIVIL APPEAL NO. 7927 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7571 OF 2015)

CIVIL APPEAL NO. 7925 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7574 OF 2015)

CIVIL APPEAL NO. 7924 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7577 OF 2015)

CIVIL APPEAL NO. 7922 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7562 OF 2015)

CIVIL APPEAL NO. 7923 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7560 OF 2015)

CIVIL APPEAL NO. 7926 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 7568 OF 2015)

CIVIL APPEAL NO. 7928 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 10397 OF 2015)

CIVIL APPEAL NO. 7929 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 11366 OF 2015)

CIVIL APPEAL NO. 7930 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 14694 OF 2015)

CIVIL APPEAL NO. 7931 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 18197 OF 2015)

CIVIL APPEAL NO. 7934 OF 2019

(ARISING OUT OF SLP (CIVIL) NO. 36406 OF 2016)

CIVIL APPEAL NO. 7935 OF 2019
(ARISING OUT OF SLP (CIVIL) NO. 24371 OF 2019)
(DIARY NO. 9625 OF 2017)

J U D G M E N T

HEMANT GUPTA, J.

1) This judgment shall dispose of two sets of appeals; one by the State arising out of an order dated July 12, 2011 passed by the Division Bench of the High Court of Judicature at Patna[1] whereby, the appeals filed by the State were dismissed directed against the order passed by the learned Single Judge on October 6, 2009; and another set of appeals arising out of an order passed by the Division Bench of the High Court on September 24, 2014 whereby the order passed by the learned single Bench on October 6, 2009 was set aside. Some other Appeals are also on board against the orders passed by the High Court on other dates.

2) Since the issue in the appeals is common arising out of same or similar facts, therefore, such appeals have been taken up for hearing together.

3) Brief facts leading to the present appeals are that large number of candidates were appointed against Class III or Class IV posts in the Health Department in Government of

1 for short, 'High Court'

Bihar till 1990 or so. The services of such employees were terminated which led to number of writ petitions before the High Court. The first round of cases came to end with the order of three Judge Bench of this Court reported as ***Ashwani Kumar & Ors.*** v. ***State of Bihar & Ors.***[2]. This Court held that recruitments made by Dr. Mallick were arbitrary, capricious, null and void after considering the Government order dated December 3, 1980 as well as Government resolution dated March 25, 1983. It was also held that none of the appointees have any accrued right in the absence of sanctioned posts. It was held that the whole exercise remained in the realm of an unauthorised adventure. Nothing could come out of nothing. *Ex nihilo nihil fit*. Zero multiplied by zero remains zero. It was held that army of employees under the Scheme had got to be cleared lock, stock and barrel so that public confidence in Government administration would not get shattered and arbitrary actions would not get sanctified.

4) It is thereafter in another round, the Division Bench of the High Court in ***State of Bihar & Ors.*** v. ***Purendra Sulan Kit & Ors.***[3] decided approximately 819 Letters Patent Appeals and the writ petitions. The High Court noticed that the entry to Class III and Class IV posts in the health department during the same period were through back door method and, in

2 (1997) 2 SCC 1
3 2006 SCC OnLine Pat 290

many cases, through forged and fabricated letters of appointment or through transfer orders without actual appointments and, in some cases, appointments were made without availability of sanctioned posts made by the authority not competent to appoint. The High Court directed the Department of Health in the Government of Bihar to scrutinize the cases of affected employees afresh on the basis of relevant materials and in view of the law declared by this Court in ***Secretary, State of Karnataka & Ors.*** v. ***Umadevi (3) & Ors.***[4]. The High Court held as under:

> "10. All the Letters Patent Appeals whether preferred by the State or by affected employees and all the Writ Petitions preferred by the affected employees are hereby disposed of by this common judgment and order with a direction to the authorities of the Health Department, Government of Bihar to reconsider the cases of all the affected employees with a view to find out on the basis of relevant facts and law as settled by the Constitution Bench in the case of *Secretary, State of Karnataka* v. *Uma Devi* (supra) as to which of such affected employees are fit for regularisation in terms of that judgment, particularly in terms of paragraph 44 of the judgment. Such exercise should be completed within a period of six months from today. If for any good reason, the time period is required to be extended then the respondent State must file an application for that purpose and seek extension from this Court. Till the process is completed, the State of Bihar and its authorities shall maintain *status quo* in respect of services of the affected employees as existing on date. The *status quo* shall get revised by the orders that may be passed by the authorities in respect of affected

4 (2006) 4 SCC 1

> employees as a result of the exercise to be undertaken by them and their final decision in the light of this judgment and order."

5) It is in pursuance to such direction; the State constituted a Committee of five officers[5] to examine the facts of individual's case. Two members of the State Committee did not participate in the proceedings nor signed the Report but remaining three members submitted its report on December 31, 2008. After considering the facts of each individual's case, the employees were put in following three categories:

(a) employment secured on forged documents;

(b) illegal appointments; and

(c) irregular appointments.

6) The State Committee found 91 cases of irregular appointments; 228 cases of illegal appointment and 358 cases of forged appointment letters. In terms of the Report of the State Committee, termination orders were again passed in respect of the candidates falling in the categories i.e. employment secured on forged documents and illegal appointments, whereas, 91 candidates whose appointment was found to be irregular were allowed to continue. Such Report of the State Committee as well as the termination orders were challenged before the learned Single Bench by filing separate writ petitions. The lead case being CWJC No. 6575 of 2009. All such writ petitions were allowed on

5 for short, 'State Committee'

October 6, 2009 whereby, the report submitted by three members on December 31, 2008 was quashed with a direction to reinstate the employees.

7) The order dated October 6, 2009 was challenged by the State in some of the intra-court appeals before the High Court. Such appeals were dismissed on March 29, 2011, *inter alia*, on the ground that inquiry was conducted in violation of the principle of natural justice as only three members have signed the Report. It was thus held that such termination is contrary to the judgment of this Court in ***State of Karnataka & Ors.*** v. ***M.L. Kesari & Ors.***[6] It was found that since the writ petitioners have worked for more than ten years, therefore, the services are entitled to be reguarlised. Such judgment is reported as ***The State of Bihar & Ors.*** v. ***Binay Kumar Singh & Ors.***[7]. This Court has allowed some of the appeals arising out of order dated March 29, 2011 in ***State of Bihar*** v. ***Kirti Narayan Prasad***[8]. In the meantime, many appeals filed by the State were dismissed by the High Court on many dates including June 30, 2010, July 12, 2011, July 14, 2011, July 20, 2011, April 15, 2013, October 30, 2013 and November 30, 2015 which are subject matter of challenge in the present appeals.

8) The order passed by the learned Single Judge also gave rise

6 (2010) 9 SCC 247
7 2011 (3) PLJR 547
8 2018 SCC OnLine SC 261

to LPA No. 1623 of 2009 and other appeals. Such appeals were allowed by consent on February 11, 2010 whereby, one-man Committee under the Chairmanship of Hon'ble Mr. Justice Uday Sinha, a retired Judge of the High Court was entrusted the task of looking into various facts of the nature of appointment with the view to adjudicate the legality of their appointments and continuance in service. Subsequently, LPA No. 560 of 2010 and some other appeals were allowed on March 23, 2010 in the light of order passed in the aforesaid LPA but without any consent. The said orders were challenged before this Court in Civil Appeal No.6484 of 2011 and other matters. The appeals were allowed by this Court on August 8, 2011, *inter alia*, on the ground that without consent, the appeal could not be disposed of in terms of LPA No. 1623 of 2009 and other connected appeals. The appeals were directed to be decided afresh. It is thereafter, the Division Bench passed an order on September 24, 2014 setting aside the order passed by the learned Single Bench on October 6, 2009.

9) The Division Bench held that in view of the appointments being illegal and *void ab initio*, the services cannot be reguarlised and that the judgment of the Division Bench of the High Court in ***Binay Kumar Singh*** is contrary to the Full Bench judgment in ***Ram Sevak Yadav & Anr.*** v. ***The State***

of Bihar & Ors[9], wherein the appellants were appointed on Class IV posts by the Civil Surgeon in the Health Department as in the present set of appeals but their services were terminated in the year 2001 for the reason that their appointments were illegal. The Full Bench of the High Court held as under:

> "41. The public power to make appointment on public posts is conferred for public good. The power is given to the officer concerned by the government in trust, that it shall be used and not abused. If the trust is belied, the protection conferred upon a government servant stands denuded. The answerability and accountability is then individual of the officer. The government is duty bound to take appropriate civil/criminal action against the officer. The illegality in the appointment is not a one way street. If there was someone willing to pay a price for the job, there was another waiting to take advantage of the same by fixing a price. It is not without reason that majority of such appointments relate to class III and IV posts. The standard by which the government professes to act is the same standard by which its actions shall be judged. Therefore whenever the government terminates an appointment being illegal, it is the constitutional duty of the government to simultaneously take action against the officials who belied the trust of the government. Those who made hay while the sun shined must see the darker cloudy days also…….
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> xx xx xx
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> 44. The petitioners were appointed in temporary capacity by a process contrary to Article 14 of the Constitution without competitive selection as an individual favour doled out to them. There is no material to

9 2013 Lab IC 1607 (FB)

> hold that they were appointed against vacant sanctioned post and possessed qualifications for the same. They were terminated before (*Uma Devi*) (supra) and have sought to retain their status by virtue of Court proceedings and are therefore not entitled to the benefits of paragraph 53. The issue of any procedural irregularity for a finding of forged appointment is therefore irrelevant."

10) The Division Bench in its order dated September 24, 2014, following the Full Bench judgment of that court, now subject matter of challenge by the employees in these appeals, held as under:

> "..... The State Government, pursuant to the aforesaid direction, in its wisdom, appears to have constituted a committee of five members. Ultimately, only three members sat in the enquiry; held the enquiry and made its report. We do not see any reason why the said report cannot be believed or should be held to be illegal or invalid. It is not in dispute that the State Committee did offer opportunity of representation and hearing to the affected employees. The principles of natural justice having been complied with, this Court ought not to have any reason to disbelieve or interfere with the finding recorded by the State Committee. It is note worthy that the writ petitioners have not challenged the finding recorded by the State Committee or at least have not been able to establish that the respective finding is erroneous on the facts of the case. We have recorded the facts of one case just to bring home the nature of illegality committed by the Civil Surgeon-cum- Chief Medical Officer. As recorded hereinabove, in repeated enquiry made by the State Government all such appointments were found to be illegal, void ab-initio. Unless there is a strong evidence of such finding being wrong, this Court in exercise of power of judicial review shall not

interfere with such finding.

In the present set of writ petitions, none of the writ petitioners has dislodged the finding of illegal appointment or has established that his or her appointment was legal and valid in all respects. In our view, the learned single Judge has erred in totally discarding the report of the State Committee on the premise that only three members of the committee had conducted the enquiry and had submitted the report.

xx xx xx

This brings us to the last question whether in view of their long service, the writ petitioners are entitled to regularization in service as observed by the Hon'ble Supreme Court in Uma Devi (3) (supra). This was the precise question which was referred to the Full Bench in the matter of Ram Sevak Yadav & Anr. (supra). The Full Bench of this Court has categorically held that the judgment in Uma Devi (supra), prohibits regularization of such appointments, the period of service being irrelevant; and that illegal appointment void abinitio cannot be regularised under any circumstances. In view of the aforesaid decision of the Full Bench of this Court, the law laid down by the Division Bench of this Court in the matter of The State of Bihar & Ors. Vs. Binay Kumar Singh & Ors. [2011 (3) PLJR 547] is no longer a good law.

In the present case, the appointments of the writ petitioners have been repeatedly held to be non est or void ab initio. The question of regularization of their service even by invoking paragraph 44 of the judgment in the matter of Uma Devi (3) (supra) shall not arise."

11) The appointments in the Health Department to Class III and Class IV posts firstly came up for consideration before this

Court in ***Ashwani Kumar***. This Court examined the following points:

> "1. Whether the appointments of Class III and Class IV employees on the Tuberculosis Eradication Scheme as a part of 20-Point Programme were legal and valid.
>
> 2. Whether the confirmation of these employees was legally justified.
>
> 3. Whether principles of natural justice were violated while terminating services of all these 6000 employees appointed by Dr Mallick.
>
> 4. What relief, if any, can be granted to the appellants."

12) In respect of first point for determination, the Court was considering the fact that Dr. A.A. Mallick, Deputy Director, Health Department of the Government of Bihar, was in charge of Tuberculosis Centre and as Assistant Director of Filaria, had appointed 6000 employees against sanctioned posts of 2250. This Court found that all these recruitments were arbitrary, capricious, null and void against violation of all norms of administrative procedure contrary to separate Government orders dated December 3, 1980 for Class III and Class IV posts. This Court considering the resolution dated March 25, 1983 relied upon by the employees to claim continuity of service, held as under:

> "12. … We agree with the contention of Shri Singh, learned counsel for the respondent-State that all these recruitments made by Dr Mallick were arbitrary, capricious and were null and void as he did violence to the

established norms and procedures for recruiting such employees. Dr Mallick was not giving appointments to these employees in his private establishment. He was recruiting them in a Government Programme which was supported by planned expenditure. Such recruitment to public services could not have been effected in such a cavalier fashion in which it was done by Dr Mallick……. Unfortunately Dr Mallick treated this Scheme as his private property. The device adopted by him was in flagrant violation of all norms of administrative procedure known to law. In this connection we may profitably refer to Government Order dated 3-12-1980…. It is not in dispute that none of these instructions and the procedure laid down for recruiting Class III and Class IV employees were followed by Dr Mallick while recruiting ad hoc/daily-wage employees at the initial stage in the Tuberculosis Eradication Scheme supervised and monitored by him……

…. But the very Resolution indicates that recruitment had to be for regular appointments to be made by the Selection Committee to Class III and Class IV posts under Malaria, Filaria and T.B. programme. Therefore, recruitment was to be done in a regular manner against available posts. It never gave a blanket power to Dr Mallick to create new posts which were not sanctioned and to make recruitment thereon. Nor did it give any authority to throw the recruitment procedure for recruiting such Class III and Class IV employees to the winds and to make recruitment in an arbitrary manner at his whims and fancies. Nowhere this Resolution indicates that the earlier government orders laying down the procedure regarding recruitment to Class III and Class IV posts were to be given a go-by. Consequently, the Resolution of 25-3-1983 has to be read along with the Government Orders dated 3-12-1980 and not dehors them….. It is axiomatic that unless there is vacancy there is no question of filling it up. There cannot be an employee without a vacancy or post available on which

> he can work and can be paid as per the budgetary sanctions... It must, therefore, be held that the appointments of 6000 employees as made by Dr Mallick in the Tuberculosis Eradication Scheme were ex facie illegal. As they were contrary to all recognised recruitment procedures and were highly arbitrary, they were not binding on the State of Bihar. The first point for determination, therefore, will have to be answered in the negative."

13) In respect of second point, it was held that if the initial entry itself is unauthorised and that appointment is not against sanctioned vacancy, therefore, the question of regularising of services would never arise for consideration. This Court held as under:

> "13. ...But if the initial entry itself is unauthorised and is not against any sanctioned vacancy, question of regularising the incumbent on such a non-existing vacancy would never survive for consideration and even if such purported regularisation or confirmation is given it would be an exercise in futility. It would amount to decorating a still-born baby. Under these circumstances there was no occasion to regularise them or to give them valid confirmation..... As we have seen earlier when the initial appointments by Dr Mallick so far as these daily-wagers were concerned, were illegal there was no question of regularising such employees and no right accrued to them as they were not confirmed on available clear vacancies under the Scheme. It passes one's comprehension as to how against 2500 sanctioned vacancies confirmation could have been given to 6000 employees. The whole exercise remained in the realm of an unauthorised adventure. Nothing could come out of nothing. *Ex nihilo nihil fit*. Zero multiplied by zero remains zero..."

14) While considering the argument to seek regularisation of the services, this Court held as under:

> "14. In this connection it is pertinent to note that question of regularisation in any service including any government service may arise in two contingencies. Firstly, if on any available clear vacancies which are of a long duration appointments are made on ad hoc basis or daily-wage basis by a competent authority and are continued from time to time and if it is found that the incumbents concerned have continued to be employed for a long period of time with or without any artificial breaks, and their services are otherwise required by the institution which employs them, a time may come in the service career of such employees who are continued on ad hoc basis for a given substantial length of time to regularise them so that the employees concerned can give their best by being assured security of tenure. But this would require one precondition that the initial entry of such an employee must be made against an available sanctioned vacancy by following the rules and regulations governing such entry.....
> ... But even in such a case the initial entry must not be found to be totally illegal or in blatant disregard of all the established rules and regulations governing such recruitment. In any case back-door entries for filling up such vacancies have got to be strictly avoided. However, there would never arise any occasion for regularising the appointment of an employee whose initial entry itself is tainted and is in total breach of the requisite procedure of recruitment and especially when there is no vacancy on which such an initial entry of the candidate could ever be effected. Such an entry of an employee would remain tainted from the very beginning and no question of regularising such an illegal entrant would ever survive for consideration, however competent the recruiting agency may be. The appellants fall in this latter class of cases. They had no case for regularisation

> and whatever purported regularisation was effected in their favour remained an exercise in futility. … For all these reasons, therefore, it is not possible to agree with the contention of the learned counsel for the appellants that in any case the confirmations given to these employees gave them sufficient cloak of protection against future termination from services. On the contrary all the cobwebs created by Dr Mallick by bringing in this army of 6000 employees under the Scheme had got to be cleared lock, stock and barrel so that public confidence in Government administration would not get shattered and arbitrary actions would not get sanctified."

15) The third point for consideration was in respect of violations of principle of natural justice. This Court found that as many as 3750 candidates were appointed in totally unauthorised manner and were squatting against non-existing vacancies. A situation had arisen which required immediate action for clearing the stables and for eradicating the evil effects of these vitiated recruitments so that the Tuberculosis Eradication Scheme could be put on a sound footing. The High Court had directed the State to appoint a Committee to thoroughly investigate the entire matter. Such Committee had issued public notices. 987 candidates appeared before the Committee. This Court held that the material supplied by the employees concerned was taken into consideration and then the Committee came to a firm decision to the effect that all these appointments made by Dr Mallick were vitiated from the inception and were required to be set aside and that is how the impugned termination orders were passed against

the appellants. Thus, it was held that the principles of natural justice were not violated if no opportunity was given to the employees concerned to have their say in the matter before their appointments were recalled and terminated.

16) However, while answering point No. 4, the State was directed to start a fresh exercise for recruiting Class III and Class IV employees against available 2250 vacancies or even more vacancies. The second round of cases started with the report of the State Committee constituted in terms of directions of the High Court in ***Purendra Sulan Kit.***

17) When the present set of appeals came up for hearing before this Court on April 3, 2018, this Court found the following four categories of cases:

> "(i) Appointments made on the basis of forged appointment letter. They are at S.Nos. 2 to 48.
>
> (ii) Appointments made on the basis of forged nursing registration certificate. They are at S. Nos. 49-50-51.
>
> (iii) Appointments made by a person who was not competent to make the appointment. They are at S.Nos. 52 to 92.
>
> (iv) There is a residual category at S.NO. 1 i.e. appointment made by Dr. A.A. Mallick, Dy. Director, T.B. and S. Nos. 93 & 94 who are now claiming appointment. Their cases will be dealt with separately."

18) The first category of cases was decided by three Judge Bench in ***Kirti Narayan Prasad*** on November 30, 2018 wherein, it

was held as under:

> "17. In the instant cases the writ petitioners have filed the petitions before the High Court with a specific prayer to regularize their service and to set aside the order of termination of their services. They have also challenged the report submitted by the State Committee. The real controversy is whether the writ petitioners were legally and validly appointed. The finding of the State Committee is that many writ petitioners had secured appointment by producing fake or forged appointment letter or had been inducted in Government service surreptitiously by concerned Civil Surgeon-cum-Chief Medical Officer by issuing a posting order. The writ petitioners are the beneficiaries of illegal orders made by the Civil Surgeon-cum-Chief Medical Officer. They were given notice to establish the genuineness of their appointment and to show cause. None of them could establish the genuineness or legality of their appointment before the State Committee. The State Committee on appreciation of the materials on record has opined that their appointment was illegal and *void ab initio*. We do not find any ground to disagree with the finding of the State Committee. In the circumstances, the question of regularisation of their services by invoking para 53 of the judgment in *Umadevi* (supra) does not arise. Since the appointment of the petitioners is *ab initio* void, they cannot be said to be the civil servants of the State. Therefore, holding disciplinary proceedings envisaged by Article 311 of the Constitution or under any other disciplinary rules shall not arise."

19) The cases in the second category i.e. appointment on the basis of forged nursing registration stands on the same footing as category one though it is argued by the appellants in three appeals that nursing registration certificate is not

forged but the matriculation certificate on the basis of which the candidates have undergone Auxiliary Nurse Mid-Wife[10] course was found to be forged. The State Committee has found that ANM certificate is a forged certificate. Even if, the certificate of ANM is not forged as argued before this Court but the Matriculation Certificate is said to be forged, the fact is that the educational qualification, a pre-condition for undergoing nursing course, was found to be forged. Therefore, the forgery is in the basic eligibility condition to undertake ANM course, which will vitiate the process of appointment. For the reasons recorded in ***Kirti Narayan Prasad***, Civil Appeal Nos. 7906 of 2019, 7919 of 2019 and 7920 of 2019 are dismissed.

20) Coming to third category of cases, Mr. Mukherjee, learned counsel for the State referred to the separate Government Circulars dated December 3, 1980 in respect of Class III and Class IV category posts. It is contended that appointments on such circulars have been found to be illegal by this Court in ***Ashwani Kumar,*** which view was in fact, approved later by Constitution Bench judgment in ***Uma Devi,*** wherein this Court held as under:

> "33. It is not necessary to notice all the decisions of this Court on this aspect. By and large what emerges is that regular recruitment should be insisted upon, only in a contingency can an ad hoc appointment be

10 for short, 'ANM'

made in a permanent vacancy, but the same should soon be followed by a regular recruitment and that appointments to non-available posts should not be taken note of for regularisation. The cases directing regularisation have mainly proceeded on the basis that having permitted the employee to work for some period, he should be absorbed, without really laying down any law to that effect, after discussing the constitutional scheme for public employment.

xx xx xx

53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in *S.V. Narayanappa* [(1967) 1 SCR 128 : AIR 1967 SC 1071] , *R.N. Nanjundappa* [(1972) 1 SCC 409 : (1972) 2 SCR 799] and *B.N. Nagarajan* [(1979) 4 SCC 507 : 1980 SCC (L&S) 4 : (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. *The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above-referred* to and in the light of this judgment……." (Emphasis Supplied)

21) In ***Uma Devi***, the argument that the employees have legitimate expectations was negated when this Court held as under:

"46. ……. The doctrine can be invoked if the decisions of the administrative authority affect the person by depriving him of some benefit or advantage which either (*i*) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there have been communicated to him some rational grounds for withdrawing it on which

he has been given an opportunity to comment; or (*ii*) he has received assurance from the decision-maker that they will not be withdrawn without giving him first an opportunity of advancing reasons for contending that they should not be withdrawn… There is no case that any assurance was given by the Government or the department concerned while making the appointment on daily wages that the status conferred on him will not be withdrawn until some rational reason comes into existence for withdrawing it. The very engagement was against the constitutional scheme. Though, the Commissioner of the Commercial Taxes Department sought to get the appointments made permanent, there is no case that at the time of appointment any promise was held out. No such promise could also have been held out in view of the circulars and directives issued by the Government after *Dharwad decision* [(1990) 2 SCC 396 : 1990 SCC (L&S) 274 : (1990) 12 ATC 902 : (1990) 1 SCR 544] . Though, there is a case that the State had made regularisations in the past of similarly situated employees, the fact remains that such regularisations were done only pursuant to judicial directions, either of the Administrative Tribunal or of the High Court and in some cases by this Court….

47. 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 recognised 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 cases concerned, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual

employees....”

22) The State Committee has examined all the appointments and segregated appointments based on forged documents and also irregular appointments. Once the detailed report has been submitted examining the merit of each candidate, and when the judgment of this Court in ***Ashwani Kumar*** and ***Uma Devi*** conclusively answer the questions against the employees, no further discussion on the arguments raised would survive. However, since the arguments have been addressed in respect of the third category of cases i.e. appointments made by a person who was not competent to make the appointments, we shall consider as to what will be the effect of such appointments.

23) Mr. Mukherjee, learned counsel for the State referred to various Government orders issued from time to time and submitted that such category has to be examined in two groups; one where the appointments were made by the incompetent authority; and second, the appointments made by the competent authority but without any sanctioned post and without following the procedure for appointment to public post.

24) It is admitted that there is no statutory rule in terms of proviso to Article 309 of the Constitution for appointment to Class III and Class IV categories in the State. The matter of

appointment is regulated by the Executive instructions. Mr. Mukherjee has referred to Bihar Health Manual. Chapter I of the Manual deals with Organisation and functions of the Health Department of the State. It was pointed out that from May 1, 1953, the Medical and the Public Health Departments were amalgamated into one department called the Department of Health under the Director of Health Services. It was pointed out that the Director of Health Services is the appointing authority in respect of all non-gazetted appointments in the department including the Subordinate Medical Service. To assist the Director, there is one Additional Director and three Deputy Directors along with other gazetted officers including Assistant Directors of Health Services (M. and C.H.). The relevant extract of the Manual reads as under:

> "2. – Administrative and Financial Powers of the Officers of the Health Department at the Headquarters and in the Subordinate Offices.
> (a) Powers of the Director of Health Services, Bihar.
>
> 3. The Director of Health Services is the appointing authority in respect of all non-gazetted appointments in the department including the Subordinate Medical Service.
> (No. 7759., dated the 9th June 1916)"
>
> 6. The following powers are also delegated to the Director of Health Services being a Head of Department under respective Codes, rules and orders:-

S. No.	Nature of Power	Reference to rules or	Limit of power

		orders	
1	xxx		
2	Power to vary details viz., rate of pay, number of hand and period of employment of temporary establishment.	Paragraph 103, Bihar and Orissa Treasury Manual.	The delegation is subject to the following conditions:- (1) The cost should not be raised beyond the total amount sanctioned. (2) Where the temporary establishment is sanctioned by the State Government, the pay of no post should be raised beyond the limit of minimum of the prescribed scale thereof. (3) In other cases the pay of no post should be raised beyond the limit of sanction enjoyed by the authority which sanctioned the temporary establishment.
	xxx		
47	Power to appoint a Government servant to hold temporarily or to officiate in more than one post at a time.	Rule 103 of the Bihar Service Code.	Full power provided that such power shall extend only to cases in which he is competent to make a substantive appointment to each of the posts concerned.

25) Clause 7 of the Manual contemplates powers of Deputy Director of Health Services whereas clause 8 deals with powers of Deputy Director of Health Services (Public Health). The powers of Assistant Director of Health Services are contained in Clause 9 which reads as under:

> "9. The following powers are delegated to the Assistant Director of Health Services (Administration), Bihar:-
>
> (a) To deal with and sign all correspondence with subordinate offices, Accountant-General, Bihar, the departments of Government and other offices for and on behalf of the Director of Health Services under his supervision.

(b) To countersign all travelling allowance bills of the non-gazetted staff employed under the Director of Health Services.

(c) To pass and countersign all indents for forms and stationery received in the office of the Director of Health Services from the Muffasil offices subject to the condition that the reduction or increase by more than 5 per cent should require the sanction of the Director of Health Services.

(d) To sanction all local purchase of contingent articles for headquarters office or the Muffasil offices not exceeding Rs.20 on any one item.
(Govt. order no. 262/HD, dated the 13th July, 1953.)"

26) The Civil Surgeons in Districts as also State Leprosy Officer and Director, T B Demonstration Centre are subordinate to the Director of Health Services. The powers of Assistant Director of Public Health are as under:

"13. Powers to the Assistant Directors of Public Health-

(a) xxx

(b) xxx

(c) To recruit non-gazetted epidemic staff like Health Assistants and Vaccinators against sanctioned posts allowed to their respective divisions. The appointment of Epidemic doctors will ordinarily be made by the Director of Health Services but in cases of emergency the Assistant Directors of Public Health will have authority to appoint them against sanctioned posts subject to the approval of the Directorate being obtained later on within three months.
(Govt. order no. 27680-H date dated the 1st November, 1954)."

27) A circular was issued by the State on September 5, 1979 with regard to retrenchment of Government/Semi-Government employees appointed on category III and IV temporary posts on ad-hoc basis. Thereafter, separate circulars were issued providing for procedure for appointment on category III and IV posts on December 3, 1980. The relevant clause for the purposes of determining the person competent to make appointment in respect of Category III posts reads as under:

> "(b) The competent authority of Secretariat and attached offices, District Collector and equivalent Officer Incharge of divisional offices of other departments will collect the information from attached offices at the start of the year for the posts actually to be filled during the year and the information of vacancies. Suitable candidates will be selected from these applicants according to the vacancies and suitable persons will be allotted to various attached offices for appointment, as per requirement, from the common merit list. All the appointments will be made by the competent authority for their respective offices.
>
> xx xx xx
>
> (e) (i) One Selection Committee will be made for preparation of merit list in the Secretariat and attached offices and the Head of attached establishment will be the Chairman of this Committee and any senior officer will be the Member of Committee, who is nominated by the Head of Establishment. Officer of Scheduled Caste/Scheduled Tribe available in the department will be the second member. In case no such officer is available, if the officer of that category is available in another department, then he will be included in the Committee and if even this

is also not possible, then Joint/Dy. Secretary of the Personnel Department, who perform the works related to Scheduled Caste/Scheduled Tribe, will be appointed as a Member.

(ii) For preparation of merit list at District level, District Head of the attached Establishment will be the Chairman of selection committee constituted and any other senior officer of that Establishment, who is nominated by their District level Head, will be its member. Second Member will be the District Welfare Officer so that at the time of preparation of merit list of government orders regarding maintenance no violation is committed.

xx xx xx

(3) It has come into the knowledge of government that appointments on category 3 posts are not being made according to the procedure prescribed in the above-said resolution. The act of working against the prescribed procedure clearly means the violation of government orders, which is a matter of regret. Therefore, it is expected that the appointments on category 3 posts are made according to the procedure prescribed in the above-mentioned Resolution. It will be the responsibility of each appointing authority to ensure that the procedure with regard to appointment on category 3 posts is followed strictly. In cast it is found that prescribed procedure has not been followed by the appointing authority with regard to appointment on category 3 posts, then Government will have to take necessary action against him. Inquiry will be conducted immediately on receiving the complaint that the officer has not followed the prescribed procedure and if the charge is found proved, the officer will be placed under suspension immediately and departmental action will be taken to remove him from services. Such incorrect appointments will be cancelled immediately."

28) Similar is the circular in respect of appointment to Category IV post. On January 20, 1992, the State issued a circular regarding transfer and posting of Class III and Class IV employees of Health Department and it was decided that the employees shall be decentralized at the District level. It was communicated that transfer and posting as far as possible shall remain within the jurisdiction of appointing officer. Clause 3 and 6 of the said circular reads as under:

> "3. Appointment officers for different category of employees of Health Department are briefly mentioned as under:
>
> (a) Civil Surgeon – For district class III and IV employees (below superior category) and A.N.M.
>
> (b) Superintendent, Medical College Hospital – for Class III and IV employees posted at Medical College Hospital.
>
> (c) State Programme Officer (Malaria, TB, Leprosy, Faileria) – Class III and IV employees under National Programme.
>
> (d) Director Head, Public Services – Lower and Upper Division Clerk, A Grade Nurse, L.H. xxx Midwife, Matron, Public Health Nurse, Sanitary Inspector, Laboratory Assistant, X-ray technician, Physiotherapist, Occupational Therapist, Ophthalmic Assistant, Broadcast Trainer, Health Trainer, Dy. District Mass Media Officer, Stenographer, Cholera Worker, Special Cholera Worker, Movie Player etc."
>
> 6. On the above basis, all the earlier orders are superseded by the following order:
> (a) Cadre of employees appointed by civil surgeon will be of district level. This will include staff of Regional Dy. Director Office.

xx xx xx

> (h) Civil Surgeon will undertake transfer/posting of those Class III and IV Employees for whom he is original appointment officer. Such transfer and postings will be done within the district."

29) On the basis of the abovesaid circulars and the Government Orders, it is argued that the appointing authority of Class III and Class IV posts is Director, Health Services. However, there was some delegation in respect of certain other administrative matters but there was no delegation in respect of appointment against Class III and Class IV category posts. The powers conferred on Assistant Director in terms of clause 13(c) of Chapter I of Bihar Health Manual empowers Assistant Director (Public Health) to appoint non-gazetted epidemic staff like Health Assistants and Vaccinators against sanctioned posts but only in case of emergency. A finding has been recorded in ***Ashwani Kumar*** that 2250 posts were sanctioned whereas 6000 appointments were made. The Tuberculosis eradication under the 20-Point Programme was not an emergency activity which may empower the Assistant Director to make large number of appointments but again such emergent powers could be exercised only in respect of sanctioned posts.

30) The exception in respect of appointing authority came with the circular dated December 3, 1980 which contemplated

that suitable candidates be selected as per requirement from common merit list by the competent authorities of Secretariat and attached offices; District Collector and equivalent Officer In charge of the Divisional Offices. Dr. Mallick, Deputy Director in the subordinate offices of the Directorate of Health Services was not competent to make appointments against Category III or Category IV posts in view of the provisions of the Manual as also in terms of the circular dated December 3, 1980 recorded by this Court in ***Ashwani Kumar*** as well.

31) Though, certain appointments have been made by Civil Surgeon which Mr. Mukherjee does not dispute as he was the competent authority but it is argued that none of the requirements to fill up the public post was adhered to. Appointments were made to the public posts without following any procedure and without there being any sanctioned post.

32) An argument was raised on behalf of learned counsel for the employees that some of the appointments have been made by Regional Deputy Director as four posts of Assistant Director were converted into that of Regional Deputy Director. We do not find any merit in the said argument. The post of Assistant Director was provided in the Directorate of Health Services with no delegation of appointment except in the case of emergency against sanctioned posts. Such Regional

Deputy Director has not been conferred power of appointment against Class III and Class IV posts. Therefore, the Assistant Director was incompetent to make appointments against the sanctioned posts except in emergent cases and so is Regional Deputy Director.

33) In ***Ashwani Kumar***, this Court has dealt with the appointments made against Class III and IV category posts in the Health Department itself. The reasoning recorded therein is that the appointments have been proved to be made not against the sanctioned posts and in a manner, which is wholly arbitrary, capricious and, therefore, employees will not get any right to seek regularisation of their services.

34) In Civil Appeal arising out of SLP (Civil) No. 20033 of 2012, the respondent was appointed by Dr. A.A. Mallick. Such appointments have been found to be illegal by this Court in ***Ashwani Kumar***. We find that there is no reason to re-examine the appointments made by Dr. A.A. Mallick. Such appointments have been adversely commented upon in ***Ashwani Kumar*** case. Therefore, no right will accrue in favour of the respondent. Consequently, the appeal arises out of SLP (Civil) No. 20033 of 2012 is allowed and the order passed by the High Court is set aside.

35) Lastly, it is argued that employees have been working for many years, some for more than 25 years, therefore, humanitarian view should be taken to set aside the order of

termination and regularise their services so as to make them entitled to pension and other retirement benefits.

36) We do not find any merit in the said argument. A Full Bench of the High Court in ***Rita Mishra & Ors.*** v. ***Director, Primary Education, Bihar & Ors.***[11] while dealing with appointment in the education department claiming salary despite the fact that letter of appointment was forged, fraudulent or illegal, declined such claim. It was held that the right to salary *stricto sensu* springs from a legal right to validly hold the post for which salary is claimed. It is a right consequential to a valid appointment to such post. Therefore, where the very root is non-existent, there cannot subsist a branch thereof in the shape of a claim to salary. The rights to salary, pension and other service benefits are entirely statutory in nature in public service. Therefore, these rights, including the right to salary, spring from a valid and legal appointment to the post. Once it is found that the very appointment is illegal and is *non est* in the eye of law, no statutory entitlement for salary or consequential rights of pension and other monetary benefits can arise.

37) Such judgment of the Full Bench was approved by three Judge Bench of this Court in a Judgment reported ***R. Vishwanatha Pillai*** v. ***State of Kerala & Ors.***[12]. This Court held as under:

11 AIR 1988 Patna 26
12 (2004) 2 SCC 105

> "17. The point was again examined by a Full Bench of the Patna High Court in *Rita Mishra* v. *Director, Primary Education, Bihar* [AIR 1988 Pat 26 : 1988 Lab IC 907 : 1987 BBCJ 701 (FB)] . The question posed before the Full Bench was whether a public servant was entitled to payment of salary to him for the work done despite the fact that his letter of appointment was forged, fraudulent or illegal. The Full Bench held: (AIR p. 32, para 13)
>
> > "*13*. It is manifest from the above that the rights to salary, pension and other service benefits are entirely statutory in nature in public service. Therefore, these rights, including the right to salary, spring from a valid and legal appointment to the post. Once it is found that the very appointment is illegal and is non est in the eye of the law, no statutory entitlement for salary or consequential rights of pension and other monetary benefits can arise. In particular, if the very appointment is rested on forgery, no statutory right can flow from it."
>
> 18. We agree with the view taken by the Patna High Court in the aforesaid cases."

38) The appointments made have been examined by five-member Committee. 91 candidates have been found to be a case of irregular appointment. Such candidates are continuing in service. None of the candidates in the present set of appeals could point out that they were appointed in a manner meant for filling up of vacant post of public appointment i.e. by advertisement and by giving opportunity

to all eligible candidates to apply.

39) This Court in ***State of Jharkhand & Ors.*** v. ***Manshu Kumbhkar***[13], while allowing of the appeal of the State found that the respondent was not sponsored by the employment exchange. There was no advertisement and there was not even any properly constituted committee to make the selection.

40) This Court in ***State of Bihar*** v. ***Upendra Narayan Singh & Ors.***[14] allowed the appeal of the State and that Section 4 of Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 casts a duty on the employer in every establishment in public sector in the State or a part thereof to notify every vacancy to the employment exchange before filling up the same.

41) This Court in ***Union of India & Anr.*** v. ***Raghuwar Pal Singh***[15] was examining a case, where the appointment letter came to be issued without approval of the competent authority, then whether such appointment letter issued to the respondent, would be a case of nullity or a mere irregularity? If it is a case of nullity, affording opportunity to the incumbent

13 (2007) 8 SCC 249
14 (2009) 5 SCC 65
15 (2018) 15 SCC 463

would be a mere formality and non-grant of opportunity may not vitiate the final decision of termination of his services. This Court held that in absence of prior approval of the competent authority, the Director Incharge could not have hastened issuance of the appointment letter. The act of commission and omission of the Director Incharge would, therefore, suffer from the vice of lack of authority and nullity in law.

42) In ***Nidhi Kaim & Anr.*** v. ***State of Madhya Pradesh & Ors.***[16], a three Judge Bench was dealing with admission of students to MBBS Course on the basis of illegal and unfair admission process. The Court held as under:

> "92. ...Having given our thoughtful consideration to the above submission, we are of the considered view that conferring rights or benefits on the appellants, who had consciously participated in a well thought out, and meticulously orchestrated plan, to circumvent well laid down norms, for gaining admission to the MBBS course, would amount to espousing the cause of "the unfair". It would seem like allowing a thief to retain the stolen property. It would seem as if the Court was not supportive of the cause of those who had adopted and followed rightful means. Such a course would cause people to question the credibility of the justice-delivery system itself. The exercise of jurisdiction in the manner suggested on behalf of the appellants would surely depict the Court's support in favour of the sacrilegious. It would also compromise the integrity of the academic community. We are of the view that in the name of doing complete justice it is not

16 (2017) 4 SCC 1

possible for this Court to support the vitiated actions of the appellants through which they gained admission to the MBBS course.

xx xx xx

94. ...Even in situations where a juvenile indulges in crime, he has to face trial, and is subjected to the postulated statutory consequences. Law, has consequences. And the consequences of law brook no exception. The appellants in this case, irrespective of their age, were conscious of the regular process of admission. They breached the same by devious means. They must therefore, suffer the consequences of their actions. It is not the first time that admissions obtained by deceitful means would be cancelled. This Court has consistently annulled academic gains arising out of wrongful admissions. Acceptance of the prayer made by the appellants on the parameter suggested by them would result in overlooking the large number of judgments on the point. Adoption of a different course, for the appellants, would trivialise the declared legal position. Reference in this behalf may be made to the judgments relied upon by the learned counsel representing Vyapam.

xx xx xx

xx xx xx

108. ...In the facts and circumstances of the case in hand, it would not be proper to legitimise the admission of the appellants to the MBBS course in exercise of the jurisdiction vested in this Court under Article 142 of the Constitution. We, therefore, hereby decline the above prayer made on behalf of the appellants."

43) In another three Judge Bench judgment in ***Chairman and***

Managing Director, Food Corporation of India & Ors. v. ***Jagdish Balaram Bahira & Ors.***[17], the Court was examining the consequences of false caste certificate produced to seek appointment. The Court held as under:

> "69. For these reasons, we hold and declare that:
>
> xx xx xx
>
> 69.3 The decisions of this Court in *R. Vishwanatha Pillai* [*R. Vishwanatha Pillai* v. *State of Kerala*, (2004) 2 SCC 105 : 2004 SCC (L&S) 350] and in *Dattatray* [*Union of India* v. *Dattatray*, (2008) 4 SCC 612 : (2008) 2 SCC (L&S) 6] which were rendered by Benches of three Judges laid down the principle of law that where a benefit is secured by an individual-such as an appointment to a post or admission to an educational institution—on the basis that the candidate belongs to a reserved category for which the benefit is reserved, the invalidation of the caste or tribe claim upon verification would result in the appointment or, as the case may be, the admission being rendered void or non est.
>
> xx xx xx
>
> 69.7 Withdrawal of benefits secured on the basis of a caste claim which has been found to be false and is invalidated is a necessary consequence which flows from the invalidation of the caste claim and no issue of retrospectivity would arise;"

44) In view of the aforesaid judgments, it cannot be said that the appointment of the employees in the present set of appeals

17 (2017) 8 SCC 670

were irregular appointments. Such appointments are illegal appointment in terms of the ratio of Supreme Court judgment in ***Uma Devi***. As such appointments were made without any sanctioned post, without any advertisement giving opportunity to all eligible candidates to apply and seek public employment and without any method of recruitment. Such appointments were backdoor entries, an act of nepotism and favoritism and thus from any judicial standards cannot be said to be irregular appointments but are illegal appointments in wholly arbitrary process.

45) In light of the above discussion, we find that the order dated July 12, 2011 or other similar orders passed by the High Court cannot be sustained in law and, thus, are set aside. The appeals filed by the State are allowed.

46) We do not find any error in the order of the High Court dated September 24, 2014, and, therefore, the appeals filed by the candidates against such order are dismissed. The pending applications, if any, shall stand disposed of.

.....J.
(L. NAGESWARA RAO)

.....J.
(HEMANT GUPTA)

NEW DELHI;
OCTOBER 17, 2019.