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**IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Reserved on: 14<sup>th</sup> December, 2020*

*Date of decision: 10<sup>th</sup> February, 2021*

+ **W.P.(C) 3956/2020 & CM APPLs. 14200/2020, 14201/2020**

NAVEEN KUMAR

..... Petitioner

Through: Ms. Ritu Jain & Mr. M. Singh,  
Advocates (M-9313988114).

versus

EMPLOYEES STATE INSURANCE  
CORPORATION

..... Respondent

Through: Mr. Yakesh Anand, Advocate for R-  
1&2 (M-9810004397).

Mr. Rajesh Pathak, Advocate for R-3  
(M-9313347911).

Mr. Tarun Khanna, Advocate for R-4.

WITH

+ **W.P.(C) 4744/2020 & CM APPLs. 17115/2020, 17116/2020**

DEEPMALA

..... Petitioner

Through: Ms. Ritu Jain & Mr. M. Singh,  
Advocates.

versus

EMPLOYEES STATE INSURANCE CORPORATION  
& ORS.

..... Respondents

Through: Mr. Yakesh Anand, Advocate for R-  
1&2.

Mr. Rajesh Pathak, Advocate for R-3  
(M-9313347911).

Mr. Tarun Khanna, Advocate for R-4.

AND

+ **W.P.(C) 5545/2020 & CM APPL. 19987/2020, 19988/2020**

DHARMENDAR KUMAR

..... Petitioner

Through: Ms. Ritu Jain & Mr. M. Singh,  
Advocates.

versus

EMPLOYEES STATE INSURANCE  
CORPORATION

..... Respondent

Through: Mr. Yakesh Anand, Advocate for R-1&2.  
Mr. Rajesh Pathak, Advocate for R-3.  
Mr. Tarun Khanna, Advocate for R-4.

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**  
**JUDGMENT**

**Prathiba M. Singh, J.**

1. This judgment has been pronounced through video conferencing.
2. The present writ petitions have been filed by various Petitioners/Workmen (hereinafter referred as “Workmen”), who were working in the Employees’ State Insurance Hospital, Basai Darapur, Delhi-110015 (*hereinafter referred as “ESI Hospital”*) run by Employees’ State Insurance Corporation (hereinafter referred as “the Corporation”). These three writ petitions cover a total of 86 Workmen, who worked as *Safai Karamcharis* at the ESI Hospital. They were engaged by *Uttar Pradesh Rajkiya Nirman Nigam* (hereinafter referred as “UPRNN”) through a sub-contractor who is Respondent No.3, M/S. New S. S. Enterprises (*hereinafter, “old Contractor”*).
3. The case of the Workmen, is that the contract of maintenance of ESI Hospital was awarded by Respondent Nos.1 & 2, to the old Contractor, under the supervision of UPRNN, since August 2019. The Workmen were told on 30th May 2020 that the contract of Respondent Nos. 1 & 2 with the old Contractor had come to an end. Respondent No.4, i.e. M/S. S. N. Enterprises (*hereinafter, “new Contractor”*), was supposed to replace Respondent No. 3 as the new contractor, with effect from 1st June 2020.

4. The Workmen, thereafter, approached the supervisor of the new Contractor, requesting to continue services in the ESI Hospital. The allegation of the Workmen is that the new Contractor told them that if they wish to continue their services in the ESI Hospital, with the new Contractor, they would have to pay a sum of Rs.13,000/- each, which was their monthly salary, to the supervisor of the new Contractor. According to the Workmen, since they did not accede to these demands, they have been disengaged from their services in the ESI Hospital.

### **Submissions**

#### ***Submissions of the Petitioners/Workmen***

5. Ms. Ritu Jain, Id. counsel appearing for the Workmen, submits that the legal position on the questions that have arisen in these writ petitions is well settled. She submits that no contractual employee can be replaced by another contractual employee, in accordance with the judgment of the Hon'ble Supreme Court in *State of Haryana and ors. v. Piara Singh [(1992) 4 SCC 118]*, which has also been considered by a Id. Single Judge of this court in *Anil Lamba v. GNCTD [238 (2017) DLT 760]*. She further submits that until and unless there is a specific allegation of misconduct against any particular Workman, they cannot be removed from service and an *en masse* sacking of all the contractual Workmen is completely illegal. She also relies upon the recent order of this court in *Sh. Hemant Kumar and Ors. v. Employees State Insurance Corporation and Ors. (W.P.(C) 6891/2019)*, where a Id. Single Judge of this court has relied upon *Piara Singh (supra)* and *Anil Lamba (supra)* to hold that the old Workmen need to be absorbed by the new Contractor. Ms. Jain, Id. counsel submits that this

recent consideration by the Court, vide the abovementioned order, itself settles the matter in the favour of the Workmen, and there is no reason as to why this order should not be followed.

6. Ms. Jain then compares the tender quoted last year, which was for 153 workers, with the one floated this year, and submits that for 122 workers in this year's tender, a higher amount of money is being paid. She further submits that almost 100 contractual Workmen, who were working in the hospital, have been disengaged, which is affecting more than 500 lives as they are not earning any salary since the last 4 to 5 months.

7. On the question of misconduct and nuisance, it is submitted by Ms. Jain, ld. counsel, that there are no allegations, except bold and general ones in respect to misconduct. Even the photographs filed by the Respondents only show that the Workmen are extremely frustrated and had merely gone to the new Contractor's office to seek their identity cards. Ms. Jain further submits that, as the old Contractor has not reported a single incident of misconduct by any of the Workmen, the allegation of misconduct by the new Contractor remains completely baseless. She asserts that by virtue of the old Contractor having no grievance with respect to any misbehaviour or misconduct by the Workmen, the new Contractor cannot argue for the same.

8. Ms. Jain, ld. counsel, finally relies upon an audio recording by which it is alleged that a demand for Rs.13,000/- as monthly compensation, was made by the new Contractor, to continue to engage the Workmen as contractual employees. She submits this demand to be completely illegal and unlawful, and asserts that the conduct of the new Contractor itself shows that their intention is completely dishonest. Lastly, she submits that considering the financial status of the Workmen and also following the ratio

of the Supreme Court in *Piara Singh (supra)*, the Workmen deserve to be employed by the new Contractor i.e., Respondent No. 4.

***Submissions of the Respondents***

9. At the outset, Mr. Rajesh Pathak, appearing for the old Contractor, Respondent No. 3, submits that there is no allegation of misconduct against any of the Workmen. He thus prays for deletion of Respondent No.3 from this writ petition.

10. Mr. Yakesh Anand, ld. counsel appearing on behalf of the Corporation and the ESI Hospital, firstly relies upon the judgment of the learned Single Judge of this court in *PTI Employees v. Press Trust of India and Anr. (2020) SCC Online Del 1216*, decided on 18<sup>th</sup> September, 2020, to argue that the usual remedy that has to be availed of by any Workman, in such circumstances, would be the statutory remedy under the Industrial Disputes Act, 1947 (*hereinafter, "the ID Act"*). He submits that the writ remedy under Article 226 of the Constitution of India, is only to be exercised in exceptional circumstances, and ordinarily the workmen ought to be directed to approach the appropriate forum provided statutorily under the ID Act. He further places reliance on the same judgment to submit that the entire law on this subject has been recently crystallized by a ld. Single Judge of this Court, and that unless and until exceptional circumstances exist, the Court ought not to entertain such writ petitions.

11. On merits, Mr. Anand, ld. counsel, submits that the judgment in *Piara Singh (supra)* is not good law, as is evident from subsequent decisions of the Hon'ble Supreme Court. He submits that the judgment of the Constitution bench in *Secretary, State of Karnataka and ors. v. Umadevi and Ors. (2006) 4 SCC 1*, has considered the judgment in *Piara Singh*

(*supra*) and has clarified the same to not be good law. Ld. counsel has further relied upon the judgment of the Supreme Court in ***Gangadhar Pillai v. Siemens Ltd. (2007) 1 SCC 533 [Para 31]***, and the recent judgment of the Supreme Court in ***ONGC v. Krishan Gopal and ors. (2020) SCC Online SC 150***, to submit that the Hon'ble Supreme Court has unequivocally held the judgment in ***Uma Devi (supra)*** to have overruled the judgment in ***Piara Singh (supra)***. In view of this, ld. counsel submits that the decisions in ***Hemant Kumar (supra)*** and ***Anil Lamba (supra)*** are contrary to law and *per incuriam* due to their reliance on ***Piara Singh (supra)***.

12. Mr. Anand, ld. counsel, also relies upon the judgment in ***Rajasthan State Roadways Transport Corporation v. Paramjeet Singh (2019) 6 SCC 250***, to submit that the Hon'ble Supreme Court has made it clear that once the appointment is contractual, Workmen can be dispensed at any stage and no indulgence can be sought by the Workmen to remain in service. He has further relied upon the following judgments to canvass the said proposition:

- ***Official Liquidator v. Dayanand & Ors (2008) 10 SCC 1***
- ***Rajiv Kumar & Ors. v. State of Punjab & Ors. [CWP No. 13348/2018, decided on 10th December, 2018]***
- ***Resmi R.S. & Ors. v. Government of India 2019 [SCC OnLine Ker 2649]***
- ***Bharat Heavy Electricals Limited v. Mahendra Prasad Jakhmola & Ors. [(2019) 13 SCC 82]***.

13. In sum and substance, Mr. Anand, ld. counsel for the ESI Hospital and the Corporation, submits that the Workmen being contractual employees, this writ petition does not deserve to be entertained. He submits that when

there are contractual employees who are not selected through the regular process, the expectation that they would be continued in service and also be regularized would be contrary to the very policy of appointment of contractual employees. Thus he prays for the writ petitions to be dismissed.

14. Mr. Khanna, Id. counsel appearing for the new Contractor/ Respondent No. 4, submits on maintainability, that the Workmen ought to be relegated to the alternate remedy available under the ID Act. He submits that the Workmen had already filed a complaint before the Labour Court, however, they withdrew the same and have filed the present writ petitions. In view of this, he submits that the present writ petition must not be liable to be entertained, and the Workmen be directed to approach the Labour Court on their grievances.

15. On merits, Mr. Khanna, Id. counsel submits that all the judgments cited by the Petitioners' relate to contractual employees who are directly engaged by the employer themselves. However, in the present cases, the Workmen are engaged through a contractor, and not by the principal employer at all. Thus, he submits that these cases are completely distinct from ***Piara Singh (supra)*** and the line of cases that have been cited by the Petitioners. Id. Counsel relies upon ***Haldia Refinery Canteen's Employees Union v. Indian Oil Corporation (2005) 5 SCC 51***, to argue that this case would be covered by the facts of ***Haldia (supra)*** wherein the Supreme Court has clearly held that the contractual employees do not become employees of the Management.

16. Mr. Khanna, Id. counsel submits that the Workmen cannot claim any "right" to be absorbed. Inasmuch as to the extent possible, the Respondent

No.4 has already engaged 109 employees of the earlier contractor. He submits that the allegation that Rs.13,000/- was being charged for the same, is incorrect and without any basis at all. He further submits that the present Petitioners/Workmen have engaged in manhandling other staff, which can be shown before this Court through a video recording.

***Rejoinder submissions of the Petitioners/Workmen***

17. Ms. Jain, ld. counsel for the Workmen, in rejoinder, submits that insofar as maintainability of these writ petitions is concerned, these cases fall within the “exceptional circumstances” mentioned in the ***PTI Employees (supra)*** judgment, as mass termination has taken place. She submits that all the Workmen were multi-tasking personnel, working at the ESI Hospital since the last 9-11 years, and have served the Hospital even during the pandemic. In lieu of this, they do not deserve to be disengaged from their services, merely because a new contractor is appointed by the ESI Hospital. These are all exceptional circumstances, and hence, in her submission, these writ petitions shall be maintainable.

18. Ms. Jain, ld. counsel, further submits that the judgment in ***Uma Devi (supra)*** only related to regularization, and in fact the ratio of ***Piara Singh (supra)***, in relation to the replacement of one contractual employee with another contractual employee, is valid even today and has not been reversed or differed with by the Supreme Court. She submits that the judgment in ***Anil Lamba (supra)***, has distinguished the judgments in ***Piara Singh (supra)*** and ***Uma Devi (supra)*** and has held that the ***Uma Devi (supra)*** is only related to regularization of workmen, which is not the issue at hand. In the said case, insofar as the replacement of contractual employees with other



contractual employees is concerned, the ld. Single Judge had followed the judgment in *Piara Singh (supra)*.

19. She submits that as per the terms of the contract awarded to the new Contractor, compliance with labour laws is the responsibility of the new Contractor and the same is clearly visible from the perusal of the award dated 28<sup>th</sup> May 2020.

20. Ld. counsel submits that a perusal of the order dated 7<sup>th</sup> July, 2020 (at paragraph 4) clearly shows that it is the ESI hospital which gives instructions to the contractor as to how much manpower is to be employed. She further submits that for 153 workers, Rs.30 lakhs per month was being paid whereas for 122 workers Rs.31 lakhs is now being paid. This, itself shows that the removal of the earlier contractor and the non-engagement of the present Petitioners is *malafide* in nature. Ms. Jain, ld. counsel finally, vehemently relying upon *Hemant Kumar (supra)*, to argue that under identical circumstances, some Workmen have been given benefit, by this court.

### **Analysis and Findings**

21. From a perusal of the pleadings and submissions, the following two issues have been raised for determination:

- 1) Whether the present writ petition is maintainable, or whether the Workmen ought to be relegated to avail of the alternate remedy available under the ID Act?
- 2) Whether contractual workmen being replaced, due to change in the Contractor with new contractual workmen is illegal and contrary to law?

22. With regards to the question of maintainability of the present writ petitions, the legal position is well settled. The jurisdiction of this court, under Article 226 of the Constitution of India, is not ousted, even though there may be an alternative remedy which is available. However, the same is to be exercised sparingly. The general rule is to relegate the parties to avail of the alternate remedy in terms of the judgment of the Hon'ble Supreme Court in *L. Chandra Kumar v. Union of India* [(1997) 3 SCC 261], followed by this court recently in *Prabhat Ranjan Deo v. UPSC* [WP(C) 3334/2019, decided on 13<sup>th</sup> July, 2020, and *PTI Employees* (*supra*).

23. In *Prabhat Ranjan Deo* (*supra*) this court has held that:

*“13. The Constitution Bench of the Supreme Court in L. Chandra Kumar (supra) laid down that the Tribunals created pursuant to Article 323-A or under Article 323-B of the Constitution of India are competent to hear matters entrusted to them and will continue to act as only Courts of 'first instance' in respect of the areas of law for which they have been constituted. Supreme Court categorically observed that it will not be open for litigants to directly approach the High Court even in cases where there is a challenge to the vires of statutory Legislation, by overlooking the jurisdiction of the concerned Tribunal, with a cautious caveat that the Tribunal shall not entertain a challenge regarding the vires of the Parent Statute, following the settled principle that a Tribunal, which is a creature of an Act, cannot declare that very Act to be unconstitutional. In the latter case alone, Supreme Court observed, that the High Court concerned may be approached directly. This observation of the Supreme Court made in para 93 of the judgement was reiterated in the penultimate paragraph 99, holding that the Tribunals will continue to act as Courts of 'first instance' and will have the competence and jurisdiction*

*to test the constitutional validity of Statutory provisions and Rules.*

*14. Insofar as the jurisdiction of the High Courts is concerned, Supreme Court further observed that the jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution of India, is a part of the inviolable basic structure of the Constitution. While this jurisdiction cannot be ousted, other Courts and Tribunals may perform a supplemental role in discharging the powers conferred on the High Courts and the Supreme Court. It was thereafter held that while the Tribunals would function as Courts of 'first instance', all decisions of these Tribunals will be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. xxx"*

The ID Act, itself creates remedies of first instance in the form of the Labour Courts and the Central Government Industrial Tribunal under Article 323-B of the Constitution. Therefore, following the *dicta* in **L. Chandra Kumar** (*supra*) and **Prabhat Ranjan Deo** (*supra*) the labour courts shall be the only courts of “first instance” with respect to Industrial Disputes within the ID Act, unless certain exceptional situations warrant the exercise of the Writ jurisdiction of this court.

24. Recently a learned Single Judge of this Court in **PTI Employees** (*supra*) has clearly held that the ID Act, is a complete code in itself and provides for remedies in all cases involving industrial disputes. It is only in exceptional circumstances that the writ jurisdiction of this court can be exercised. Further the learned Single Judge has opined that if there are any disputed questions of fact in the industrial dispute, a writ petition ought not

be entertained. It is only if most of the facts in a case are admitted that a writ petition should be entertained. The relevant extracts from the said decision are as under:

“xxx

*30. Industrial Disputes Act is a complete Code in itself which provides the remedies to the employees in respect of all industrial disputes. All industrial disputes, in the first instance, have to be adjudicated by the Industrial Tribunal under the Industrial Disputes Act and the awards of the Industrial Tribunal are amenable to the writ jurisdiction of this Court. This is the legislative policy and intendment underlying the Industrial Disputes Act.*

*31. The law is well settled by the Supreme Court that a writ petition should not be entertained in respect of industrial disputes for which a statutory remedy is available under the Industrial Disputes Act unless 'Exceptional circumstances' are made out. The Supreme Court further held that if the writ involves disputed questions of fact, the writ petition should not be entertained. The writ jurisdiction is a discretionary jurisdiction and the discretion should not ordinarily be exercised, if there is an alternative remedy available to the petitioner.*

.....

*34. The above principles are summarized as under:*

- I. If the writ petition discloses 'Exceptional circumstances' and does not involve disputed questions of fact, the writ petition in respect of an industrial dispute may be entertained.*
- II. If the writ petition discloses 'Exceptional circumstances' but the facts are disputed, the writ petition should not be entertained and the*

*petitioner has to invoke the statutory remedies available as per law.*

*III. If the writ petition does not disclose 'Exceptional circumstances', the writ petition should not be entertained irrespective of whether the facts are disputed or not.*

*IV. Writ jurisdiction is a discretionary jurisdiction and the discretion is ordinarily not exercised, if an alternative remedy is available to the petitioner. The powers conferred under Article 226 of the Court are very wide but these are extraordinary remedies subject to self-imposed restrictions.*

.....

*40. The retrenched employees have a statutory remedy to raise an industrial dispute under the Industrial Disputes Act. The petitioners have based their claims on the alleged violation of the provisions of the Industrial Disputes Act. There are no exceptional circumstances for exercise of the writ jurisdiction under Article 226 of the Constitution in these writ petitions.*

....

*41. This case is squarely covered by the principles laid down by the Supreme Court in **U.P. State Bridge Corporation Ltd. v. U.P. Rajya Setu Nigam Karamchari Sangh** (supra) in which the High Court allowed a writ petition of the Trade Union to challenge the termination of a workman. The Supreme Court held that the High Court erred in entertaining the writ petition since the disputes related to the enforcement of a right/obligation under the Industrial Disputes Act and the specific remedy was provided under the Industrial Disputes Act. Relevant portion of the judgment is reproduced hereunder:*

*"11. We are of the firm opinion that the High Court erred in entertaining the writ petition of the respondent Union at all. The dispute was*

*an industrial dispute both within the meaning of the Industrial Disputes Act, 1947 as well as U.P. IDA, 1947. The rights and obligations sought to be enforced by the respondent Union in the writ petition are those created by the Industrial Disputes Act.  
(Emphasis Supplied)*

.....

47. According to the petitioners, this Court issued notice in the writ petition after considering the respondent's objection to the maintainability of the writ petition and the detailed interim order was passed in favour of the petitioners. It is submitted that these petitions cannot now be dismissed on the ground of alternative remedy. This very objection was raised before the Supreme Court in **State of Uttar Pradesh v. Uttar Pradesh Rajya Khanij Vikas Nigam Sangharsh Samiti (supra)** in which the Supreme Court held in clear terms that a writ petition can be dismissed on the ground of alternative remedy even after it has been admitted and interim order has been passed. Relevant portion of para 38 of the judgment is reproduced hereunder:

*"38. ...it cannot be laid down as a proposition of law that once a petition is admitted, it could never be dismissed on the ground of alternative remedy. If such held contention is upheld, even this court cannot order dismissal of a writ petition which ought not to have been entertained by the High Court under article 226 of the constitution in view of availability of alternative and equally efficacious remedy to the aggrieved party once the High Court has entertained a writ petition albeit wrongly and granted the relief to the petitioner."  
(Emphasis Supplied)*

*48. The petitioner's next contention is that the writ jurisdiction should be exercised because all facts averred by the petitioner are admitted. However, the respondent has vehemently disputed all the averments made by the petitioners in the writ petitions. Both these writ petitions involve disputed questions of facts which cannot be resolved by this Court in writ jurisdiction.*

*This Court is of the view that the affidavits and documents filed by the parties are not sufficient to decide the questions of fact without evidence.*

.....

*50. The Courts are required to maintain uniformity in applying the law. The principles of uniformity and predictability are very important principles of jurisprudence. If this writ petition with such complicated questions of fact and law is entertained then on what ground a writ petition of simple retrenchment or termination can be declined. Most of the retrenchment cases are simpler than the present case but the writ jurisdiction is not exercised as the law is clear and well settled that the rights under the Industrial Disputes Act have to be agitated before the Industrial Tribunal.*

*xxx"*

In ***PTI Employees (supra)*** this court was dealing with the retrenchment of 297 employees, and the court did not deem the same as an "exceptional circumstance" to admit the Writ Petition, over and above the alternate statutory remedy available within the ID Act.

25. In the present case, the Petitioners are 86 Workmen who were engaged by the old Contractor. The old Contractor had entered into a contract with the ESI Corporation, through the UPRNN. Its contract with the Corporation came to an end. A tender was issued, and a new Contractor stepped in for providing the personnel to the Corporation. The new

Contractor has engaged several of the employees who were already working under the old Contractor. However, the Workmen have not been absorbed by the new Contractor, and there are several reasons that have been given by both sides, with respect to the same.

26. Ms. Jain, Id counsel for the Workmen submits that mass termination makes this situation an “exceptional circumstance” wherein this writ petition ought to be admitted. However, following the rationale in ***PTI Employees (supra)***, where there was a retrenchment of 297 employees and the Court yet did not hold the same to constitute an “exceptional circumstance”, this court does not deem it fit to hold that the present case is an “exceptional circumstance” where this writ petition ought to be maintainable, inspite of the availability of an efficacious alternate remedy under the ID Act.

27. Further, the Workmen have argued that the new Contractor demanded a sum of Rs.13,000/- from each workman for them to be absorbed, and they rely on an audio recording to that effect, which has been disputed. The new Contractor, on the other hand, alleges misconduct on the part of the Workmen, and has also relied upon certain photographs and a video recording to that effect, which has also been disputed. These two conflicting stands of the parties, constitute disputed facts in the present cases and this Court cannot venture into determining the accuracy of the same in writ jurisdiction.

28. Thus, following the judgments in ***L. Chandra Kumar (supra)***, and the recent judgments in ***Prabhat Ranjan Deo (supra)*** and ***PTI Employees (supra)*** this Court holds that the Workmen ought to be relegated to avail of the alternative remedy that is available, under the ID Act.



29. In fact, in the present cases, the Workmen had filed claims before the Labour Court, however, they withdrew the same due to the pendency of the present writ petition.

30. In view of the fact that the Workmen are now being relegated to the statutory remedy i.e. the Labour Court, they are permitted to restore the claim petitions filed by them earlier before the appropriate authorities, and pursue the same in accordance with law.

31. Ld. counsels for the parties canvassed very detailed submissions on how the judgment of *Piara Singh (supra)* relied upon in *Anil Lamba (supra)* and *Hemant Kumar (supra)* has been overruled by the judgment of the Supreme Court in *Uma Devi (supra)*. Ld. counsel for the Respondents have also relied upon the recent judgment of the Supreme Court in *BHEL (supra)*, where the Supreme Court has laid down the broad guidelines as to when an employer-employee relationship is established in the context of contractual employees, as well as the recent judgment in *ONGC v. Krishan Gopal (supra)* where the Supreme Court has held, in categorical terms, that the judgment in *Piara Singh* stands overruled by the judgment in *Uma Devi*.

32. Since the writ petition is being rejected due to availability of an alternate remedy, this Court does not consider it appropriate to go into the merits of these contentions raised by the parties. The Labour Court ought to decide the claims of the Workmen on merits. The allegation that the new contractor has demanded huge sums of money for appointing workmen on contract basis is quite a disturbing feature, if true. Such allegations are becoming a common feature and are a disturbing trend in labour disputes. The labour court and the appropriate authority are directed to enquire into

such allegations and take action in accordance with law if the allegations are proved to be correct.

33. The Workmen, in the present case, were contractual employees, who were engaged by the old Contractor. This Court does not see any justification in their replacement, considering the fact that they were working in the hospital for 10 to 12 years. Moreover, during the pandemic, the justification to change the Contractor is also not considered to be *bonafide* conduct on part of the Corporation. However, considering the fact that new Contractor has already stepped in and various Workmen have already been posted in the hospital, the said issue is not being gone into by this Court. Needless to add, that if there is a need for further Workmen at the hospital, the new Contractor would consider appointing the Petitioners, who have considerable experience of working in the hospital.

34. The writ petitions and all pending applications are, accordingly, disposed of in the above terms, giving liberty to the Petitioners to avail of their remedies in accordance with law.

**PRATHIBA M. SINGH**  
**JUDGE**

**FEBRUARY 10, 2021**

*dk/Ak*