

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4823 of 2015

Dr. Baidya Nath Singh aged 64 years S/O Late Dr. Chandrashekhar Prasad, in the Department of Pathology in R.B.T.S Homeopathic Medical College & Hospital, Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Bihar, Patna.
2. The Secretary, Department of Health, Bihar, Patna.
3. The Joint Secretary, Department of Health, Bihar, Patna.
4. The Director, Health (Desi Chikitsa) Department of Health, Bihar, Patna.
5. The Principal, Govt. R.B.T.S. Homeopathy Medical College and Hospital, Muzaffarpur

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajani Kant Pathak

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC 25

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 07-07-2015

Petitioner got aggrieved when notification dated 4.4.2012 came to be issued granting promotion to a set of people on various posts, which is primarily from the post of Lecturer to Reader and to some even on the post of Professor from Reader. According to him, many of those persons who have been granted promotion are juniors to the petitioner. He was one of the earliest to be appointed in the

College in the year 1981 and it is an obvious case of discrimination.

2. One thing is of significance that petitioner has already superannuated now and is not part of the establishment.

3. State counsel was directed to file counter affidavit and clarify as to why petitioner has not been granted promotion when his juniors have been granted promotion. One reason offered by the respondents is that when the matter was taken up for promotion along with the rest, it was found that petitioner is involved in a criminal case for which an FIR was instituted in Kazi Mohammadpur Police Station, which is Case No.142 of 2011 and is dated 23.5.2011 under several sections of the Indian Penal Code. He was enlarged on bail subsequently on 3.9.2011 in relation to the said proceeding.

4. The rules being what they are, his case was not considered in the above background and not because of any extraneous reason.

5. The State has also taken a plea that petitioner cannot be granted promotion on the post of Professor from the post of a Lecturer because that is what his prayer seems to be in the writ application. They also assert that it is not that the petitioner has not got any promotion in the past. Like others, he had also been given pay-scale of a Reader and no discrimination was caused nor any objection was raised with regard to grant of such benefit.

6. In view of the above facts, it is not that there was deliberate effort made by the respondents to over-ride the right of the petitioner for consideration and grant of promotion.

7. The submission of the counsel for the petitioner that the criminal case was basically a private issue arising out of a boundary dispute may not help him because he is not in a position to deny the institution of the case and his involvement and enlargement on bail while his case for promotion was being considered. The reason for non grant is not arbitrary.

Writ application, therefore, is dismissed. No relief can be granted to the petitioner in the given facts.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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