

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.4736 of 2013**

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Azmat Hussain Ansari

.... .... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Health (Medical Education, Family Welfare And Indigenous Medicine), Government Of Bihar, Patna.
2. The Principal Secretary, Department Of Health (Medical Education, Family Welfare And Indigenous Medicine), Government Of Bihar, New Secretariat, Patna.
3. The Secretary, Department Of Health (Medical Education, Family Welfare And Indigenous Medicine), Government Of Bihar, New Secretariat, Patna.
4. Director (Indigenous Medicines), Department Of Health, Government Of Bihar, New Secretariat, Patna.
5. The Principal, Government Ayurvedic College, Kadamkuan, Patna.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. V.K. Tripathy

For the Respondent/s : Mr. Ram Prakash A.C. to S.C.11

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL ORDER**

- 4    19-01-2016**
1.                Heard learned counsel for the petitioner and learned counsel for the State.
  
  2.                In the present case, the petitioner is seeking promotion to the post of Reader and also promotion to the post of Professor. The petitioner has already superannuated from the service from Bihar Aurvedic College, Kadamkuan, Patna, and he discharged the duty of Lecturer till the date of superannuation.
  
  3.                The case of the petitioner along with Dr. Ramesh



Chandra Jha was placed for consideration before the Departmental Promotion Committee for promotion to the post of Lecturer, which was considered on 10.08.2004 and they were found to satisfy the qualification mentioned for the promotion to the post of Reader and so much so that their service career were found to be satisfactory as two posts of lecturer were available and therefore, the recommendation was given by the Departmental Promotion Committee to promote both the persons. Dr. Remesh Chandra Jha, who was also recommended for promotion when he was not granted promotion he moved before this Court in C.W.J.C. No.6151 of 2005 and after consideration of the facts available on record, the Court has passed the order in the following term:-

*“This Court would accordingly, direct the respondents to notify the promotion of the petitioner on the post of Reader in keeping with the recommendation of the D.P.C. dated 4.8.2004 and in view of the fact that the petitioner was found eligible for such promotion by the D.P.C. on 4.8.2004, his such promotion should be notified with effect from the date the D.P.C. had found him eligible for such promotion. The petitioner would also be entitled for financial benefit of the post of Reader from the date of such promotion keeping in view that the matter had remained pending before this Court at least from*

*12.05.2005, when this writ application was filed. This Court would further direct that all steps for notifying promotion of the petitioner in the aforementioned terms and its consequential financial benefit must be completed within a period of three months from the date of receipt/production of a copy of this order.*

*With the aforementioned observations and directions this writ application is allowed to the extent indicated above”*

4. Learned counsel for the petitioner submits that the case of the petitioner and the case of Dr. Ramesh Chandra Jha are identical and the relief that has been given to Dr. Ramesh Chandra Jha should also be given to the present petitioner as there is no slight difference with the case of the petitioner and Dr. Ramesh Chandra Jha and whatever plea that has been taken in that case is taken in the present case.

5. Learned counsel for the State placed reliance on paragraph Nos. 9 and 10 of the Counter Affidavit, which are as follows:-

*9. That it is further submitted that when in the light of the recommendation of the D.P.C. dated 04.08.2004 the promotion of the petitioner was being processed for notification, a letter of*



*Director of Ministry of Health and Family welfare of the Govt. of India dated 01.02.2006 was received by the Govt. of Bihar wherein it was mentioned that provisions made by the CCIM in its circular dated 29.03.1996 making P.G. qualification not essential for teachers appointed on / or before 01.07.1989 was contrary to the decision and notification issued by the Govt. of India and in fact the said circular of CCIM dated 29.03.1996 had been issued by it even without complying the provisions of Section 36 of CCIM Act, 1970 requiring prior approval of Govt. of India.*

*10. That therefore, aforesaid letter of Govt. of India dated 01.02.2006 (Vide Annexure-D) the promotion of the petitioner could not be notified.”*

6. Learned counsel for the State submits that on that count the relief of promotion was not granted to the present petitioner but the learned counsel for the State has not denied the same stand was taken what has been taken in the present case.

7. Having considered the rival contentions of the parties as well as the order of this Court in C.W.J.C. No.6151 of 2005 (Dr. Ramesh Chandra Jha vs. State of Bihar & Ors.) has taken into consideration the same stand taken in the present case in

paragraph Nos.9 and 10 of the Counter Affidavit and the Court has arrived to a conclusion that the plea that has been taken by the State cannot be basis to deprive promotion and directed to grant relief to Dr. Ramesh Chandra Jha as mentioned above.

8. As the case of the present petitioner and the case of Dr. Ramesh Chandra Jha are based on identical facts and situation, this Court feels that the present petitioner is also entitled to the relief which has been given in favour of Dr. Ramesh Chandra Jha.

9. In such view of the matter, this Court directs that the petitioner be granted promotion to the post of Reader from the date of the recommendation of the Departmental Promotion Committee. As the petitioner has approached this Court in the year 2013, himself is liable for delay in approaching this Court after a long lapse of delay.

10. In such view of the matter, the financial benefit cannot be extended to the petitioner beyond the date of filing of the present writ petition. Accordingly, the petitioner be promoted to the post of Reader from the date of recommendation by Departmental Promotion Committee but the financial benefit will be granted from the year 2013.

11. With the aforesaid observations and directions, this writ petition is allowed.

(Shivaji Pandey, J)

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