

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.1620 of 2009

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Dr. Rajendra Prasad, son of Uma Shanker Prasad, resident of 403, Santosha Complex, Bandarbagicha, P.S. Kotwali, District Patna

.... Intervener/Petitioner

Versus

1. The State of Bihar through Principal Secretary, Medical Education & Health, Patna Secretariat, Patna
2. Bhanu Pratap Sharma, son of not known to the petitioner, Principal Secretary, Medical Education and Health, Patna Secretariat, Patna
3. Vivek Kumar Singh, son of not known to the petitioner, Additional Secretary, Medical Education and Health, Patna Secretariat, Patna

.... Opp. Parties

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Appearance :

For the Petitioner/s : Mr. Amit Prakash, Advocate

For the O.P. : Mr. Ajit Kumar, S.C. 28

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA
and
HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

40 17-03-2016 The petitioner herein is respondent No.16 in LPA No. 368 of 2009, which was disposed of on 13th July, 2011 when the following order was passed :-

“In view of above, we are of the opinion that the order of learned Single Judge with reference to effecting the promotion with retrospective effect has to be set aside. Accordingly, it is set aside. However, having heard all the parties, we are of the opinion that in the interest of justice it would suffice if a direction is issued to the respondent-State to consider the cases of the doctors who are in service on 20.06.1996 in their respective posts by giving effect to their promotion as per

the eligibility criteria and as per the guidelines contained in the policy dated 20.06.1996 prospectively.

We also make it clear that as the rules came into force on 14.05.1997 the promotion of these persons and also other doctors who have not come to this Court, should be considered as per the existing rules.”

It may be mentioned that the Circular dated 20th June, 1996 contemplates re-designation to the post of Assistant Professor of those Anesthetist who have three years teaching experience and are postgraduates.

In terms of the order of this Court a gradation list was circulated on 9th May, 2014, Annexure-A appended to the show cause dated 22nd July, 2014. It has been stated in the show cause that after publication of the final gradation list the matter of promotion to the eligible persons, including the petitioner, was placed before the Departmental Promotion Committee for its consideration. Recently the recommendation of the DPC has been obtained and cleared by the Finance Department and now it has been sent to the Cabinet for approval.

The grievance of the petitioner is that though in the gradation list the petitioner is reflected as Serial No. 39 but in the Office Order dated 22nd July, 2014 the respondents are not treating

the petitioner as Assistant Professor from 20th June, 1996 as the petitioner has been granted promotion as Assistant Professor from 1st July, 2009, which clearly contradicts the direction of the Division Bench as also the averments made in the show cause circulating the gradation list.

We have heard learned counsels for the parties and find that the direction of this Court has been complied with by the respondents as per their interpretation of the order. If action of the respondents is not in accordance with law, it is open to the petitioner to avail the remedy but it cannot be said that there is wilful disobedience of any of the directions of this Court. Consequently, we do not find any merit in the contempt application.

The contempt application stands disposed of.

(Hemant Gupta, J)

(Ramesh Kumar Datta, J)

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