

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.22396 of 2014

Dr. Jawahar Singh S/o Late Ram Jatan Singh, resident of Mohalla- Nageshwar Colony , Kavi Raman Path -404 Sri Ganesh Apartment , District - Patna.

.... Petitioner/s

Versus

1. The Union of India, the Secretary , Ministry of Health & Family Welfare , Nirman Bhawan , Govt. of India , New Delhi.
2. The Under Sectary to the Govt. of India , Ministry of Health and Family Welfare, CHS I Section , Nirman Bhawan, New Delhi.
3. The Director, Government of India, Central Government of Health Scheme, New Delhi.
4. The Additional Director, government of India, Central Government Health Scheme, 54 South Chhajubagh, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Hemant Kumar Karan, Advocate
Mr. Jayant Kumar Karn, Advocate.
For the Union of India : Mr. S.D. Sanjay, Sr. Advocate.
Mr. Sujeet Kumar Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 10-05-2016

Heard learned counsel for the parties.

2. The order dated 24.07.2014 passed by the Central Administrative Tribunal, Patna Bench, Patna (hereinafter referred to as the “Tribunal”) is the subject matter of challenge in the present writ petition wherein claim of the petitioner for regularization of his services from 29.06.1989 to 20.09.1994 was declined, inter alia, on the ground that it is delayed.

3. The petitioner was appointed on 29.06.1989 at



Safdarjung Hospital, New Delhi. He was later posted as Medical Officer (Ad hoc) in the office of the Regional Director, Health and Family Welfare, Patna on 01.10.1990. As per the petitioner, he rendered services from 29.06.1989 to 20.06.1990 on a consolidated pay of Rs. 3,800/- per month at Safdarjung Hospital, New Delhi. Subsequently, his services were regularized with effect from 21.01.1994, which, as claimed, should have been done from his initial appointment i.e., 29.06.1989. Such claim was declined by the Tribunal relying upon the Hon'ble Supreme Court judgment in the case of *State of West Bengal vs. Aghore Nath Dey & Ors.* Reported as *1993 SCC [L & S] 783*, of *M.K.Shanmugam and Anr. v. Union of India* reported as *(2000) 4 SCC 476*, and of *Y.H.Pawar v. State of Karnataka & Anr.* reported as *(1996) 10 SCC 444* as well as of *State of Rajasthan v. Jagdish Narain Chaturvedi* reported as *(2009) 12 SCC 49*.

4. In view of the categorical decisions of the Hon'ble Supreme Court, the benefit of ad hoc, daily wages or work charged cannot be counted for the purpose of determination of eligibility for promotion or for regularization; we do not find any error in the order passed by the Tribunal.

The petitioner claims parity with Dr. Saroj Kumar Pandey, whose an Original Application was allowed on 05.10.2006

and CWJC No. 15152 of 2007 against the said order was dismissed on 11.02.2010. However, we find that the said order is of no assistance, as the Hon’ble Supreme Court’s judgment referred to by the Tribunal, as mentioned above, were not brought to the notice the Court.

5. In view thereof, we do not find any error in the order passed by the Tribunal, which may warrant interference in the present writ petition. It is accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Sujit
N.A.F.R.

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