

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6739 of 2013

=====

1. Dr. Vishvendra Kumar Sinha Son Of Chakrapani Garain Resident Of H - 3,
Doctor'S Colony Kankarbagh, Patna - 20, P.S. Patrakar Nagar, District - Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Department Of Health, Government Of Bihar, Patna
3. Additional Secretary, Department Of Health, Government Of Bihar, Patna
4. Joint Secretary, Department Of Health, Government Of Bihar, Patna
5. Dr. Satyendra Kumar Sinha Son Of Ambika Prasad J/61, People'S Co -
Operative Colony, Kankarbagh, P.S. Kankarbagh, District - Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rajendra Prasad Singh, Sr. Advocate.
Mr. Kishna Chandra

For Respondent No.5 : Mr. Banwari Sharma, Advocate
Mr. Ahiv Kumar,
Mr. Sahjanand Sharma, Advocates.

For the State : Mr. Asit Kumar Jha, AC to GP6.

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-07-2016

Heard the parties.

In the present writ petition, petitioner is seeking relief to
declare the entry of respondent no.5 as Resident Doctor, namely,
Registrar to be illegal on the basis of the forged document.
Petitioner and respondent no.5 have entered into service in the
Health Service, State Government as Civil Assistant Surgeons,
claim has been made by the petitioner that respondent no.5 by
making wrong declaration, on the basis of the forged document,
was appointed as Resident Doctor against the advertisement

published in 1987 and subsequently respondent no.5 on the basis of awarding wrong points in the year 1991 entered into service as Registrar. When merit list was published in 2007 where respondent no.5 was shown to be senior to the petitioner. He has raised a grievance and challenged the seniority of respondent no.5.

In the pleading it has been stated that respondent no.5 has wrongly been shown that he has served two years Rural Service whereas he has hardly served the Rural Service only for four months in the State of Jharkhand whereas the advertisement stipulates, mandatory qualification of two years Rural Service for Resident Doctor.

Petitioner approached this Court vide C.W.J.C. No. 7972 of 2007 challenging the seniority list showing petitioner to be junior to respondent no.5 published by the State Government, this Court on factual consideration found, complete lack of bonafide in the issuance of gradation list dated 8.7.2008 on the part of all the official right from the assistant to the highest authority who were associated in issuance of such final gradation list dated 8.7.2008 and dispose of the matter with a direction that the authority should go for a fresh exercise deciding objection raised by the petitioner. It will be relevant to quote relevant portion of

the aforesaid order:

“It will also be open to the petitioner and the respondent no.5 to supplement their objections already filed but they must do it within a period of fifteen days from today, whereafter the Additional Secretary of the department will fix a date of hearing extending opportunity of hearing to all concerned persons included in the tentative gradation list dated 10.1.2008 for supplementing anything further beyond their objections raised in writing to the seniority shown in the tentative gradation list dated 10.1.2008 whereafter he will place his views and obtain orders of the State Government before issuance of final gradation list. The entire aforesaid exercise must be completed within a period of four months from today.

With the aforementioned observation and direction, this application is disposed of.”

In pursuance thereof the authority vide order dated 20.3.2012 considered objections, including the objection raised by the petitioner against respondent no.5 about earning the points illegally, wrongly has been made as Registrar committing fraud. The objection with respect to illegality in earning points has been rejected on the ground of staleness.

During argument, the petitioner has submitted that he is not interested, respondent no.5 be dismissed from service on account of perpetration of fraud for appointment as Resident Doctor. If a person has entered into service wrongly or rightly, his seniority will be counted from the date of joining and the objection which he has raised of getting higher point and taking

entry into service as Registrar after lapse of such a long time, cannot be re-opened.

In such view of the matter, this Court does not find any merit in this writ petition. It is accordingly dismissed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.7.2016
Transmission Date	NA