

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1451 of 2013
IN
Civil Writ Jurisdiction Case No. 13132 of 2012

- =====
1. The State of Bihar
 2. The State of Bihar through the Principal Secretary Health Department (Previously Known As Health and Medical Education and Family Welfare), Bihar, New Secretariat, Patna
 3. The Principal Secretary Health Department (Previously Known As Health and Medical Education and Family Welfare), Bihar, New Secretariat, Patna
 4. The Additional Secretary Health Department (Previously Known As Health and Medical Education and Family Welfare), Bihar, New Secretariat, Patna
 5. The Deputy Secretary Health Department (Previously Known As Health and Medical Education and Family Welfare), Bihar, New Secretariat, Patna

.... Appellants

Versus

Dr. (Mrs.) Geeta Singh W/O Late Dr. K.K. Singh R/O- 0/70, Doctor'S Colony Kankarbag, P.S.- Patrakarnagar, P.O.- Lohiya Nagar, District- Patna

.... Respondent

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Appearance :

For the Appellant/s	:	Mr. AVINASH KUMAR, Adv.
For the Respondent/s	:	Mr. Banwari Sharma, Adv.
		Mr. Shrikant Sharan Singh, Adv.
For the State	:	Mr. Sarvesh Kumar Singh, AAG-13

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 03-04-2017

Seeking exception to an order passed by the learned writ court on 10.09.2012 in C.W.J.C. No.13132 of 2012, this appeal has been filed under Clause-10 of the Letters Patent.

Respondent was granted regular promotion as a Professor in the department of Preventive and Social Medicine with effect from 22.05.2008. She claimed the benefit retrospectively with effect from 25.04.1998, on which date, she was appointed to the post. However



treating her to be on officiating charge, initially, when the benefit was not granted she approached this court by filing a writ petition. The writ petition was disposed of directing her to represent and a decision was to be taken by the department. When the representation was rejected on 22.05.2008, the writ petition in question was filed. The petitioner claims retrospective promotion on the post of Professor on account of the fact that her appointment even though shown as officiating was after following the rules for recruitment namely the Bihar Medical Education Service Cadre Rule, 1997 and merely because an advertisement for appointment to the post was not issued, which was a fault on the part of the government, it was pointed out that the petitioner, who was otherwise appointed after following the due process of law can not be denied the benefit of appointment from the initial date, when she was selected and posted however showing on officiating basis. The respondent only contented in the writ petition that as an advertisement was not issued the petitioner cannot take the benefit of her officiating appointment. However, the learned writ court has taken note of various aspects of the matter, considering the amendment made to the rule and finding the petitioner to have been appointed after following due process and her to be fulfilling all the eligibility criteria as contemplated under recruitment rule granted her benefit of appointment from the original date. In doing so, we find that no error has been committed by the learned writ court, in as much



as the rule, which permit him to the post in question. The petitioner was appointed after following due process of law.

That apart from the supplementary counter affidavit that has come on record, we find that several persons have been appointed on officiating adhoc basis, as is evident from Annexure-A series filed by the petitioner along with supplementary affidavit and in all these cases, the employee appointed in various faculty in the Medical Education Department have been granted the benefit of appointment from the initial date of appointment, even though they are termed as officiating on adhoc. That being the factual position, there is no reason as to why similar benefit should not be conferred to the petitioner, after the writ court has also decided the case in her favour.

Accordingly, we find no error in the order passed by the learned writ court warranting re-consideration.

The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Amit/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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