

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1119 of 2015

IN

Civil Writ Jurisdiction Case No. 12810 of 2010

- =====
1. The State of Bihar
 2. The Health Commissioner, Government of Bihar at Patna
 3. The Director - In - Chief Health Services, Bihar, Patna
 4. The Civil Surgeon - Cum - Chief Medical Officer, East Champaran at Motihari
 5. The District Magistrate, East Champaran at Motihari

.... Appellants

Versus

Bindeshwari Prasad S/o Late Bir Prasad R/o village / Mohalla - Azad Nagar, P.S.
Motihari Town, Distt. - East Champaran

.... Respondent

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Appearance :

For the Appellants : Mr. Khurshid Alam, AAG12

For the Respondent : Mr. Anil Kumar, Advocate

Mr. Rajesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 13-02-2017

Appeal is directed against the order dated 04.09.2014, passed by a learned Single Judge in CWJC No.12810 of 2010. The learned Single Judge had set aside the decision of the respondents i.e. State authorities to take away the benefit of Super Time Scale granted to the petitioner of the writ. He has also decided to impose cost of Rs.5,000/- for arbitrary and irrational kind of order passed at the level of the Director-in-Chief, Health Services, Bihar, Patna.

2. The grant of Super Time Scale to the private respondent, who was petitioner before the writ court, is not the issue. It is the decision to take away that benefit, which has led to the litigation. The reason for recalling the benefit given by the respondent authorities was that the petitioner belonged to a State Cadre and the benefit of Super Time Scale given by the Civil



Surgeon-cum-Chief Medical Officer at the district level was a decision taken by an authority not vested with such power.

3. The learned Single Judge went through the two circulars, which were annexed as Annexure-8 as well as Annexure-9 and he came to a considered opinion after perusing the same that the petitioner actually belonged to the District Cadre and not the State Cadre and on the basis of a wrong interpretation having been given to the two circulars, i.e., Annexure-8 and 9, such a benefit was being revisited and undone. The finding of the learned Single Judge is supported by rereading of Annexure-8 and 9 by this Bench and, therefore, the said decision not only to quash the order cancelling the Super Time Scale granted to the petitioner was held to be irrational and arbitrary but for repeated kind of follies committed by the State a cost of Rs.5,000/- was also imposed upon the Director-in-Chief, Health Services, Government of Bihar.

4. The learned Single Judge has committed no error either in fact or in law, which is required to be annulled or set aside. The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J.)

(Nilu Agrawal, J.)

S.Kumar/-

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