

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.925 of 2017

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Awinash Kumar, Son of Late Jyotish Prasad Roy, Resident of Mohalla- Anand Bagh Colony, Bhikhanpur, P.S. Ishak Chak, District – Bhagalpur.

.... Petitioner/s

Versus

1. The State of Bihar, through the Director in Chief, Health Services, Bihar, Patna.
2. The Collector of the District, Bhagalpur.
3. The District Compassionate Appointment Committee, through Sr. Deputy Collector, District Establishment Branch, Bhagalpur.
4. The Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur.
5. The District Programme Officer, Bhagalpur.
6. Prabhash Kumar Sinha, S/o Late Moti Prasad Sinha, Resident of village - Awadhपुरi Jagatpur, P.O. & P.S. Banka, District – Banka.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar, Adv.

For the Respondent/s : Mr. Mritunjay Kumar, AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 29-08-2017

Heard Mr. Dhananjay Kumar, learned counsel appearing for the petitioner and Mr. Mritunjay Kumar, learned Assisting Counsel to Government Pleader No.12 for the State.

The petitioner is aggrieved by the order bearing Memo No.27 dated 25.3.2016, whereby his claim for appointment on compassionate ground against a Class III post has been rejected. A copy of such order is impugned at Annexure-8 to the writ petition.

The facts of the case leading to the present writ petition is that the father of the petitioner who was employed in the Jawahar Lal Nehru Medical College and Hospital, Bhagalpur died in harness



on 18.11.2012. The petitioner filed his application for appointment on compassionate ground. The District Compassionate Appointment Committee, Bhagalpur considering the case of 4 such applicants inclusive of the petitioner recommended their cases for appointment against Class III post subject to the conditions that they would be required to pass written/oral Hindi examination. The petitioner was declared passed in the examination as confirmed from the memo dated 7.1.2013 of the District Magistrate present at Annexure-2. The petitioner thereafter continued representing the authorities for issuance of appointment letter but which was not coming rather vide Memo No.1534 dated 27.3.2014, of the Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur, the petitioner was appointed against Class IV post in the scale of Rs.5200-20200/- with grade pay of Rs.1800/-. A copy of the appointment order is present at Annexure-6.

Since the appointment order was contrary to the recommendation made by the District Magistrate for appointment of the petitioner against a Class III post, that he came before this Court in CWJC No.9428 of 2014 and which was disposed of with a direction to the District Magistrate, Bhagalpur to pass appropriate order on the claim so raised by the petitioner. The claim of the petitioner has been considered by the District Magistrate, Bhagalpur



in the light of the order of this Court and has been rejected, inter alia, on grounds that there was no vacant Class III post available for appointment. The order of rejection passed by the District Magistrate, Bhagalpur bearing Memo No.27 dated 25.3.2016 is now put to challenge in the present writ petition.

Mr. Dhananjay Kumar, learned counsel appearing for the petitioner while reiterating the sequence of events, submits that although the petitioner had an enforceable right in view of the decision taken by the District Compassionate Appointment Committee to appoint him against a Class III post but considering that the plea so raised by the petitioner has not found favour with the respondents, he is ready to accept the offer of appointment so made to him vide order bearing Memo No.1534 dated 27.3.2014 without further contesting the matter since the family of the petitioner is passing through hard times.

Having heard learned counsel for the parties and having perused the records, I am of the opinion that even though a compassionate appointee may not have any legal right to claim a particular post but the petitioner did raise a contentious issue especially where undisputedly his name was recommended by the committee for appointment against Class III post. However since the petitioner has now chosen to resign to his fate and is willing to



surrender to the order of appointment issued by the Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur bearing Memo No.1534 dated 27.3.2014 which appointment order has been upheld by the District Magistrate in the order impugned dated 25.3.2016, the matter would require an adjudication on merits.

In the circumstances discussed and since precious time has been consumed in litigations, the petitioner would be well advised to give his joining before the Superintendent, Jawahar Lal Nehru Medical College and Hospital, Bhagalpur in response to the offer of appointment bearing Memo No.1453 dated 27.3.2014 on or before 8th of September, 2017 and the same should be accepted in accordance with law.

The writ petition is allowed with the directions aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03-09-2017
Transmission Date	NA

