

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.988 of 2016

In

CWJC No.5506 of 2013

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Dr. Surendra Kumar, son of Sri Buchan Yadav, resident of village- Rauhi
Narendrapur, P.S.- Andhra Math, District- Madhubani.

.... Petitioner-Appellant/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of General Administration, Govt. of Bihar,
Patna.
3. The Principal Secretary, Department of Health and Medical Education, Bihar,
Patna.
4. The Chairman, Bihar Public Service Commission, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

.... Respondents-Respondent/s

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Appearance :

For the Appellant/s : Mr. Bindhyachal Singh, Advocate
Mr. Vipin Kumar Singh, Advocate

For the Respondent/s :

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 09-05-2017

Seeking exception to an order dated 28.03.2016 passed
by the Writ Court in CWJC No.5506 of 2013, this appeal has been
filed under Clause 10 of the Letters Patent.

The petitioner was a candidate, who was aggrieved by
non-consideration of his claim for appointment on the post of Assistant
Professor in various departments in the Medical Service. Grievance of



the petitioner was that three years' experience obtained by him as a Senior Resident was not considered. However, we find that the learned Writ Court has held that even if the petitioner is found to be eligible for consideration of experience clause, the petitioner had received 12 marks in the process of selection and no posts are available to grant appointment to the petitioner. The learned Writ Court also found that two persons whose appointments were alleged to be improper by the petitioner, namely One Prem Prakash and Ramanand Prasad Sinha, who had received 10 and 12 marks respectively, were never arrayed as respondents, their appointment was not challenged and in the absence of their appointment being challenged and they being arrayed as respondents, no relief can be granted to the petitioner.

We find no error in the same warranting reconsideration. The petitioner having not challenged the appointment of the so-called less meritorious candidates or illegally appointed candidates and having not arrayed them as respondents cannot get any benefit from the Writ Court and if considering the same, the Writ Court had dismissed the writ petition, we find no error in the same. That apart, even in this appeal, the so-called appointees have not been arrayed as respondents and even a prayer is not made in this petition for cancelling or quashing their appointment and instead granting appointment to the petitioner.



Taking note of all these factors, we see no reason to make any indulgence into the matter. The appeal stands dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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