

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17525 of 2017

=====

Dr. Sheo Mangal Mishra, Son of Late Vishwanath Mishra, Resident of Flat- 21,
Block- 2, Arya Kumar Road, Rajendra Nagar, P.S.- Kadamkuan, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Joint Secretary, Department of Health, Government of Bihar, Patna.
4. The Under Secretary, Department of Health, Government of Bihar, Patna.
5. The Director in Chief, AYUSH, Department of Health, Government of Bihar, Patna.
6. The Director, (Ayurved), AYUSH Sector, Department of Health, Government of Bihar, Patna.
7. The Accountant General, Bihar, Patna Bhawan, Bailey Road, Patna.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Lalan Kumar

For the Respondent/s : Mr. CHITTRANJAN SINHA (PAAG2)

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 07-05-2018

1. The learned counsel for the parties are in agreement that the present case can be disposed of in similar terms as has been done in the case of ***Ramesh Chandra Jha*** vide judgment ***dated 31.01.2018*** passed by this Court ***in CWJC no. 3852 of 2011***. It would be relevant to reproduce hereinbelow the operative portion of the aforesaid judgment dated 31.01.2018 :-

6. In the Supplementary Counter Affidavit filed on behalf of the respondent no. 2, the Additional Director, Health Services, Bihar, Patna has



categorically submitted in Paragraph 7 that in compliance of the order dated 26.04.2017 passed in M.J.C. No. 1674/ 2012, the Health Department vide its Memo No. 243(3) dated 22.05.2017 has issued a conditional order of extension of age of superannuation to the doctors who retired between 28.01.2011 to 22.12.2011, subject to final outcome of SLP (Civil) CC No. 24758-24765/2016. In the Supplementary Counter Affidavit, no distinction has been made out in respect of the case of the present petitioner.

7. The petitioner in the present case was made to retire w.e.f. 28.02.2011 whereas the respondent no. 2, in his affidavit, has accepted the fact that the benefit of extension of age of superannuation has been granted to those who retired between 28.01.2011 to 22.12.2011, subject to the final outcome of the S.L.P. If it is so, this Court does not find any reason to say as to why the same benefit will not be allowed to the petitioner by the State in terms of its own litigation policy. The petitioner, in the opinion of this Court, would be entitled to the



same benefits which have been conferred upon those who were similarly situated to the petitioner and were made to retire between 28.01.2011 to 22.12.2011, i.e., the date when the Finance Department had issued the notification extending the age of retirement from 62 years to 65 years.

8. In the above said view of the matter, the respondents are directed to consider the case of the petitioner in the same terms and on the same line as have been done in the case of similarly situated persons. The respondents are also obliged to provide all such benefits, though subject to the condition as has been imposed by them in respect of others, to the present petitioner as well. An appropriate order in this regard must be passed within a period of two months from the date of receipt / production of a copy of this order.

2. In view of the aforesaid, the respondents are directed to consider the case of the petitioner in terms of the case of the similarly situated person and pass an appropriate order within a period of eight weeks from today.



3. The writ petition is allowed in terms of the law laid down by this Court in *CWJC no. 6953 of 2011 and other Analogous cases* which has been disposed of by judgment *dated 14.02.2012* as also judgment *dated 28.01.2016* passed in *L.P.A. no. 852 of 2012*.

(Mohit Kumar Shah, J)

rinkee/-

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	09.05.2018
Transmission Date	-

