

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18081 of 2016

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Dr. Ajay Kumar Singh S/o Late Nand Kishore Singh village-Kachnar, P.S.-Siswan,
Distt-Siwan-Siwan At Present Posted as Medical Officer, Ayurvedic Aushd ahaylay,
Gabhisar (Raghunathpur), District-Siwan

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department Govt. of Bihar, Patna
2. The Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna
3. The Principal Secretary, Health Department, Bihar, Patna
4. The Principal Secretary, Finance Department, Bihar, Patna
5. The Director Desichikitsa, Government of Bihar, Patna
6. The Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Siwan

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mukesh Kant, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 12-04-2018

Heard Mr. Mukesh Kant, learned counsel for the petitioner,
learned counsel for the State and Mr. Dhananjay Kumar, learned
counsel for the Zila Parishad.

The petitioner is a doctor employed with the Zila Parishad,
Siwan and prays for extension of benefit of enhancement of
superannuation age in so far as it has been made applicable to the
doctors in the State at 67 years vide notification No. 6745 dated
30.7.2015, a copy of which is at Annexure 2 to the writ petition.

It is not in dispute that as and when the State by exercising
its enabling powers vested under Rule 73 of the Bihar Service Code
(hereinafter referred to as 'the Code') has enhanced the age of its



employees it is followed by the Zila Parishad. It is undisputed that when the State Government enhanced the superannuation age of its employees from 58 to 60 years and which was not being extended to the employees of the Zila Parishad that they through their Association approached this Court in C.W.J.C.No. 8583/2005 and vide judgment and order passed on 15.9.2006, a writ of mandamus was issued to the State Government to extend the benefit of enhancement of age to the Zila Parishad employees and which direction was implemented accordingly by the State.

In so far as the present case is concerned, the age of superannuation of the doctors in the State was enhanced from 62 to 65 years through notification dated 22.12.2011 but when usual obstructions were being put that one Md. Amiruzzaman Khan approached this Court in C.W.J.C.No. 2649/2012 and the benefit of enhancement of 65 years was extended by a Co-ordinate Bench of this Court vide judgment and order dated 10.2.2012 passed in consideration of the earlier judgment of Dr. Narbadeshwar Tripathy in C.W.J.C.No. 18372/2009. Despite the legal position having been settled in so far as extending of benefit of age enhancement under Rule 73 of 'the Code' to Zila Parishad employees is concerned, yet at each Stage these employees have been forced to approach this Court because of the usual obstructive conduct of the respondents. Presently the age of the doctors have been enhanced through the notification in



question dated 30.7.2015 at Annexure 2 from 65 to 67 years and though representations have been made by the petitioner before the authorities concerned for extension of benefit, yet he has been told by the Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Siwan through letter dated 19.10.2016 that he would be superannuating on completion of 65 years on 31.10.2016.

Mr. Mukesh Kant, learned counsel for the petitioner, informs that though technically he has been made to superannuate with effect from 31.10.2016 but he has been granted an extension of two years whereby he would be formally superannuated on 31.10.2018.

Having heard learned counsel for the parties and considering the judgments of this Court rendered in C.W.J.C.No. 8583/2005, C.W.J.C.No. 18372 of 2009 and C.W.J.C.No. 2649 of 2012 referred to above, it is a clear case of abuse of executive powers and a case of overreach by the respondents in forcing the employees of the Zila Parishad to move this Court each time a notification is issued under Rule 73 of 'the Code' for enhancing the age of the State Government employees for its applicability to the Zila Parishad employees.

For the reasons discussed, the order superannuating the petitioner issued by the Deputy Development Commissioner cum Chief Executive Officer, Zila Parishad, Siwan dated 19.10.2016 is not



only illegal but an attempt to overreach the position set at rest in so far as the benefit of extension of age enhancement to Zila Parishad employees is concerned and is accordingly quashed and set aside. The petitioner shall be held deemed reinstated with effect from the date of superannuation i.e. 31.10.2016 and shall be entitled to continuity as well as to the in-service benefits as found admissible to him and accordingly would continue in service until he reaches the superannuation age of 67 years in tune with the notification dated 30.7.2015 at Annexure 2 to the writ petition.

The writ petition is allowed.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	26.04.2018
Transmission Date	NA

