

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10159 of 2009

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Dr.Sudhanshu Shekhar Mallik s/o Late Hari Prasad Basu mallik resident of Mohalla
Chand Chati, Chauk Mussallapur P.S. Kadamkuan District Patna
..... Petitioner/s

Versus

1. The State of Bihar through Secretary Health Department, Patna.
 2. Health Commissioner, Govt. of Bihar, Patna
 3. Principal Secretary, Health Department, Govt of Bihar, Patna
 4. Joint Secretary, Health Department, Government of Bihar, Patna
 5. Director in Chief, Health Services, Govt. of Bihar, Patna
 6. Drug Controller of Bihar, Patna.
 7. Director Public Health Institute, Patna
 8. Sushil Kumar Poddar S/o Khetra Mohan Poddar resident of Chitragupta Nagar
Kankar Bagh .
..... Respondent/s
- =====

Appearance :

For the Petitioner/s : Mr. Amit Upadhyay
For the Respondent/s : Mr. (GA1)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 03-04-2018

Heard counsel for the petitioner and the respondent State.

2. The writ petition has been filed by the petitioner who claims to be eligible to the post of Senior Annalist in the Public Health Institute and also for the release of time bound promotion and other benefits.

3. It is apparent from the records that the petitioner has earlier approached this court by filing writ petition. The writ petition bearing C.W.J.C. No. 2390 of 1996, earlier filed by the petitioner was disposed off by order dated 12.09.2008. This Court finds that the petitioner's claim in respect of promotion against the vacancy of the year 1977 have already been considered time barred and it has been



held by the said order that the only remedy for the petitioner is to file fresh representation before the authorities with respect to payment if any due to him. Petitioner has thereafter, approached the authorities claiming for payment with respect to study leave from 05.08.1980 to 31.05.1982, medical leave for the period 16.05.1994 to 08.04.1997 and salary for the period 21.02.1999 to 30.06.2004 by filing a representation pursuant to the relief granted by this Court under order dated 12.09.2008 passed in C.W.J.C. No. 2390 of 1996.

4. Petitioner has also claimed the benefit of time bound promotion by stating that through out his career he has worked as Assistant Chemical Analyst and has not been granted any promotion and he is eligible for time bound promotion.

5. The petitioner has represented before the authority that in terms of some letters issued by the Health Department dated 15.10.1990 as also the letter dated 29.06.1967 issued by the Deputy Director Health Services, he is not required to pass Hindi Noting Drafting Examination.

6. The claim of the petitioner with reference to the departmental letter dated 15.10.1990 it has specifically been stated in the impugned order dated 24.03.2009 issued by the Principal Secretary, Health Department bearing no. 15Ao-2-07/96-331(15) rejecting the petitioner's representation filed pursuant to the order passed in C.W.J.C. No. 2390 of 1996 that the said letter dated



15.10.1990 was merely a request made by the Health Department and that no such decision has been taken by the competent authority in the Raj Bhasha Department, so as to exempt the petitioner from Hindi Noting Drafting Examination. His claim in so far as the letter dated 29.06.1967 is concerned, has thus been denied by the authorities.

7. This Court finds that apart from the said reason assigned in letter dated 23.03.2009, the posts which have been enumerated for exemption from the Hindi Noting and Drafting examination have been specified in the said letter. The post on which the petitioner has been working namely, the Assistant Chemical Analyst does not figure in the said list. As a result, in light of the said letter dated 29.06.1967, the petitioner cannot say that he has been exempted from passing of the Hindi Noting Drafting Examination.

8. As regards his claim with respect to other periods, it is the specific stand in the counter affidavit in respect of the period within 05.08.1980 to 31.05.1982 during which the petitioner claims to be on study leave that he has never produced any document showing sanction of study leave.

9. As regards the grant of leave for the period 16.05.1994 to 08.04.1997 it has specifically been stated that the petitioner was absent from service without grant of leave for the said period and the period of absence has been treated as breakage in service. The relevant order dated 21.12.2000 holding breakage in



service is annexed as Annexure A to the counter affidavit.

10. As regards the period of absence from 21.02.1999 to 30.06.2004 it has specifically been stated that the petitioner has been found to be absent without any information and the charges to this respect has been proved against the petitioner in a proceeding and therefore, the salary for this period is not admissible to the petitioner. Relying upon the aforesaid decisions, the petitioner's claim has been rejected.

11. No rejoinder has been filed by the petitioner denying the assertions made in the counter affidavit.

12. There is no occasion to this Court to pass any order in favour of the petitioner as the claim made by the petitioner has adequately been decided by a reasoned and speaking order i.e., impugned order dated 24.03.2009 bearing no. 15/Ao-2-07/96-331(15). The reasons assigned therein, reiterated by way of counter affidavit are not disputed.

13. The writ petition therefore has to be and is accordingly, dismissed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	11.04.2018
Transmission Date	

