

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22353 of 2013

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Nagendra Prasad Thakur S/O Late Ram Khelawan Singh Resident Of
Mohalla- Pajawapur, P.S- Barh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Finance Department Government Of Bihar, Patna.
3. The Joint Secretary, Finance Department, Government Of Bihar, Patna.
4. The Director In- Chief, Health Services, Bihar, Patna.
5. The Civil Surgeon- Cum- Cheif Medical Officer, Patna.
6. The Deputy Superintendent Sub- Divisional Hospital Barh, Patna.
7. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Sinha, Adv. Mr. Tripurari Nath Amastha Adv.
For the State	:	Mr. Zakir Haider, Adv.
For the Acnt. General	:	Mr. Ranjan Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 29-01-2018

This writ petition under Article 226 of Constitution of India has been filed for quashing the order dated 2.2.2013 passed by Civil Surgeon-cum-Chief Medical Officer, Patna , by which claim of petitioner for grant of higher pay scale has been rejected on the ground that petitioner had not obtained permission from department for appearing in Praveshika Examination conducted in the year 1978 by Hindi Vidyapith, Deoghar and secondly on the ground that petitioner has not brought any document. According to which, the said certificate is equivalent to Senior Secondary Examination or Matriculation.



Briefly stated fact of the case as stated in the writ petition is that petitioner was appointed as a health worker on 1.12.1966 by the Senior Executive Medical Officer and Civil Surgeon, Arrah, vide Memo dated 1.12.1966 and he was posted at the State Dispensary, Manoharpur in the district of Bhojpur. The service of the petitioner was confirmed by Civil Surgeon, Bhojpur, Arrah, vide order dated 14.5.1974 on the post of Dresser.

It has been submitted on behalf of the petitioner that he appeared at the Matriculation Examination after taking permission from the department through Hindi Vidyapith, Deoghar, in 1978 and passed the said examination in second division. Petitioner vide order dated 15.11.1976 issued by the Dy. Director was transferred to the Sub Divisional Hospital Barh where he joined on 19.11.1976 and retired on 31.3.2013 from the post of Paridhapak (Dresser) in the old pay scale of Rs.400 -540/-. It has been submitted on behalf of the petitioner that Finance Department, Government of Bihar passed a resolution dated 8.4.1987 whereby the Government of Bihar, after consideration of recommendation of the Committee for removal of anomalies in the salary decided to implement the amended pay scale of Rs.535-765/- in place of pay scale of Rs. 400- 540 to the health worker who had passed the Matriculation Examination. The post of health worker and post of



Dressor is equivalent, as such, petitioner was entitled for revised pay scale of Rs. 535-765 with effect from 1.4.1986 which was subsequently revised in the pay scale of Rs. 3050 – 4590. It has further been contended that pursuant to resolution of Finance Department dated 8.4.1987 the Civil Surgeon-cum- Chief Medical Officer, Bhagalpur, revised the pay scale of Dessor of Rs. 535-765. Similarly, Civil Surgeon-cum-Chief Medical Officer, Vaishali and Munger also issued circulars for revised payment of pay scale from 1.4.1986 which have been enclosed as Annexure-6 series to this petition.

Petitioner represented before the Civil Surgeon-cum-Chief Medical Officer, Patna, but no order was passed on his representation. A writ petition was filed by one Chhotan Singh, Dessor, being C.W.J.C. No. 7583 of 2000 which was disposed of on 16.11.2006 with a direction to file a representation before the Civil Surgeon-cum-Chief Medical Officer, Patna, to decide the claim of the petitioner within a period of three months and pursuant to that order also petitioner filed a representation for higher pay scale and reminder was also given but his representation was not decided. Petitioner thereafter filed C.W.J.C. No. 16378 of 2011 which was disposed of on 15.11.2011 with a direction to Civil Surgeon-cum-Chief Medical Officer, Patna, that he may take a



final decision on the claim of the petitioner within a period of three months. When the order of writ court was not complied, petitioner filed MJC No. 1354 of 2012 in which a show cause was filed to the Civil Surgeon-cum-Chief Medical Officer, Patna, enclosing a reasoned order dated 2.2.2013 by which the claim of the petitioner was rejected and contempt petition was dismissed with liberty to the petitioner to assail the order dated 2.2.2013.

It has been submitted on behalf of the petitioner that the order passed by the Civil Surgeon-cum-Chief Medical Officer, Patna, rejecting his claim for higher pay scale on the ground that petitioner did not take permission from the Competent Authority for appearing in the examination as well as any document of the State Government showing that Praveshika certificate granted by Hindi Vidyapith, Deoghar, is equivalent to matriculation is not correct. Petitioner has enclosed his service book in which it has been incorporated by the Controlling Authority on 30.7.1994 that petitioner has passed the Praveshika Examination conducted by Bihar Hindi Vidyapith, Deoghar, Petitioner has also brought the order of Personnel and Administrative Reform Department, Government of Bihar, by which Praveshika certificate granted by Bihar Hindi Vidyapith, Deoghar, will be considered equivalent to Secondary School Examination or Matriculation. As such,



petitioner is entitled for higher pay scale from 1.4.1986 being a matriculate.

After hearing the parties and considering materials available on record, it is apparent that petitioner has passed Praveshika Examination from Bihar Hindi Vidyapith, Deoghar, in the year 1978 and same has been incorporated in his service book by his Controlling Authority. Therefore, it will be deemed that necessary approval from the Controlling Authority was obtained by the petitioner. Secondly, he has also enclosed the order issued by the Personnel and Administrative Reforms Department, Govt. of Bihar, Patna, to the effect that certificate granted by Hindi Vidyapith, Deoghar, is equivalent to matriculation and as such, petitioner is entitled for higher pay scale as granted to similarly situated persons who were matriculate on 1.4.1986 after the State Government accepted the recommendation of the Pay Anomaly Committee and granting two pay scale , one for non-matriculate health worker/dresser and other for matriculate health worker/dresser and petitioner is also entitled for the same. But since petitioner has approached this Court in 2011, as such, he is entitled for arrears of difference of salary from 1.4.2008. Petitioner is also entitled for revised pension on enhanced pay scale.



Writ petition stands allowed to the extent as indicated above.

(S. Kumar, J)

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CAV DATE	NA
Uploading Date	
Transmission Date	

