

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20211 of 2014

=====

1. Swami Nandan Sharma son of Sachidanand Sharma, Resident of Village- Pali,
P.S.- Konch, District- Gaya

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources
Development Department, Govt. of Bihar, Patna
2. The District Magistrate, Shekhpura
3. The District Education Officer, Shekhpura
4. The District Programme Officer (Establishment), District- Shekhpura
5. The Block Development Officer, Block- Chewara, District- Shekhpura
6. The Block Education Extension Officer, Chewara Block, District- Shekhpura

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman

For the Respondent/s : Mr. AMAR NATH DEO

Ms. Prakritita Sharma, A.C. to S.C.-25.

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

Date: 07-08-2018

Heard learned counsel for the petitioner, counsel appearing on behalf of
the State.

This writ application has been filed for issuing direction to the
respondent to make payment of salary from December, 2013 in spite of the fact
that the petitioner has been working and performing his duties regularly.

During the pendency of the writ application, respondents have issued
order for terminating the service of the petitioner on the ground that disability
of the petitioner is only 30 per cent whereas the requirement for appointment on
the ground of disability is 40 per cent.

The learned counsel for the petitioner submits that at the time of
appointment, there was no such prescription. In addition thereto, he submits



that it would be evident that the Medical Board has found the petitioner disability as 45 per cent.

In view of the aforesaid discrepancy in Annexure-1 and Annexure-A, the writ petition is disposed of with the direction to the District Programme officer (Establishment) Sheikhpura to get the disability of the petitioner tested by referring the matter to the Medical Board comprising of expert of Patna Medical College Hospital. The District Programme Officer is required to request Superintendent of Patna Medical College Hospital to ensure constitution of Medical Board for determination of physical disability of the petitioner. If on verification of the Medical Board of Patna Medical College Hospital, the disability of the petitioner is found to be 40 per cent and above, the petitioner would be entitled to continue in service but also payment of entire arrears as the order contained in Annexure-5 was passed on the assumption that the disability of the petitioner is less than 40 per cent. Entire exercise in this regard may be completed within a maximum period of three months from the date of receipt / production of a copy of this order.

With the aforesaid observation and direction, this writ application is disposed of.

(Anil Kumar Upadhyay, J)

Sanjeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16/08/2018
Transmission Date	NA

