

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 7295 of 2015**

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Kamla Prasad Singh, S/o Late Harbansh Singh, Resident of Village and P.O.-  
Murgawan, P.S.- Silao, District- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar through Commissioner-cum-Principal Secretary,  
Department of Health, Government of Bihar, Patna
2. The Commissioner-cum-Principal Secretary, Department of Health,  
Government of Bihar, Patna
3. The Director-in-Chief, Health Services, Government of Bihar, Patna
4. The Deputy Director, Department of Health, Government of Bihar, Patna
5. The Chief Medical Officer -cum- Civil Surgeon, Nalanda at Biharsharif

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : M/s Dharmesh Kr, Balbhwan Choudhary, Advs  
For the Respondent/s : Mr Binay Kr Pandey, AC to GA II

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date : 07-05-2019**

Heard learned counsel for the petitioner and the  
respondent-State.

2 Petitioner was initially working as an Auxiliary  
Health Worker (for brevity, *AHW*). Under the order of the Civil  
Surgeon -cum- Chief Medical Officer, Gaya dated 04.08.1966, he  
was appointed/transferred as Family Planning Extension Educators  
(for brevity, *FPEE*). The petitioner, since 1966 till his retirement  
in the year, 1997, worked on the said post and has filed the writ  
petition in the year, 2015 claiming shifting back of the date of



grant of Senior Selection Grade from 12.01.1985 to the year, 1981. Petitioner is claiming benefit of the service rendered earlier as AHW prior to his appointment as FPPE in the year, 1966. He has referred to Annexure 9 of the writ petition to contend that the same is a policy decision and that as per Clause 3 thereof, petitioner cannot be deprived the benefits of service rendered as AHW.

3 The order, pursuant to which the petitioner has been appointed/transferred as FPPE, is pursuant to a decision of the Health Directorate contained in letter dated 30.03.1966 and 18.06.1966 regarding appointment of AHW working in Health Centers as FPPE. The same has not been placed on record by the petitioner in support of his claim that period prior thereto should be counted as service for the purposes of determining the benefits.

4 The specific stand taken by the State is that the order dated 04.08.1966 issued by the Civil Surgeon -cum- Chief Medical Officer, Gaya was a fresh appointment. Having regard to the decisions of the Health Directorate, as contained in the order of Civil Surgeon dated 04.08.1966, which clearly contemplates that the decision of the Health Directorate was in respect of appointment. Stand of the State Government appears to be correct. Having availed fresh appointment in the year, 1966, the petitioner, for the first time, has approached this Court in the year, 2015, i e,



three years after he has retired. Prior thereto, the writ petition bearing CWJC No 2813 of 2010 was disposed of with liberty to make his representation.

5 The same has finally been decided by the order which is impugned in the instant writ petition rejecting his claim for counting the period rendered as AHW as petitioner has been appointed as FPPE by virtue of fresh appointment. Appointment did not contemplate grant of benefits for work rendered as AHW, and petitioner had accepted such fresh appointment with open eyes and without any objection. Now, at this belated stage, he cannot be permitted to claim any benefit in excess of order of fresh appointment.

6 This Court does not find any infirmity in the impugned order. Writ petition is devoid of merit and the same is dismissed.

**(Madhuresh Prasad, J)**

**M.E.H./-**

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