

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4879 of 2019

Dr. Murari Saran, son of Late Radhakant Saran, resident of Mohalla-
Bhawanipur Zirat, P.S- Chhatauni, District- East Champaran

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Panchayat Raj Department, Govt. Of Bihar, Patna
2. The Principal Secretary, Panchayat Raj Department, Govt. of Bihar, Patna
3. The Principal Secretary, Department of Health Govt. of Bihar, Patna
4. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
5. The Director, Desi Chikitsa, Govt. of Bihar, Patna
6. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran District- East Champaran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Anisur Rahman, Adv
For the State	:	Mr. Ashok Kumar Gupta, AC to GP-10
For the Zila Parishad	:	Mr. Sanjay Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 29-03-2019

The petitioner is aggrieved by the order dated 4th of April, 2018 passed by the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran, Motihari whereby the representation of the petitioner for being paid for the period that he has worked as a Homeopathic Doctor has been rejected.

2. The learned advocate for the petitioner has submitted that the order is a non-speaking one and does not at all advert to the fact whether work from the petitioner



was taken or not.

3. It may be noted here that the petitioner had earlier approached this Court for payment of salary for the period that he had worked from the age of 65 to 67 years. The contention of the petitioner before this Court in C.W.J.C. No. 298 of 2016, referred to above was that even though the age of superannuation of Homeopathic Doctors was not extended from 65 to 67 years, as was done in the case of other doctors, but the petitioner was allowed to continue in service and he rendered his services till 2017 and superannuated only on attaining the age of 67 years. The aforesaid contention of the petitioner was seriously refuted by the learned counsel appearing for the *Zila Parishad*.

4. Since there was a dispute over the question of fact, a Bench of this Court, vide order dated 30.01.2018 did not pass any order but granted liberty to the petitioner to approach the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran at Motihari, who was further directed to pass necessary orders in accordance with law after verification of the facts.



5. From the order impugned, it appears that the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran at Motihari has only noted that the extension of age of retirement is not applicable to the case of the petitioner.

6. This is no response to the representation filed by the petitioner.

7. The clear case of the petitioner is that despite no extension of retirement age for doctors like the petitioner, work was taken from him and he was only made to retire after attaining the age of 67 years. The aforesaid factual aspect of the matter has not at all been responded or adverted to. The order, therefore suffers from the vibes of being a non-speaking order.

8. The order impugned, thus, cannot be sustained in the eyes of law and is set aside.

9. The petitioner is directed to make a fresh representation before the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran at Motihari (respondent No. 6) within a



period of two weeks from today, making clear statement regarding his engagement as a doctor till date he attained the age of 67 years. The Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, East Champaran at Motihari (respondent No. 6) shall, on verification of the facts, pass reasoned/speaking order within a further period of six weeks thereafter.

10. With the aforesaid observation/direction, with writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03/04/2019

