

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4605 of 2019

1. The Union of India through the Secretary, Ministry of Health and Family Welfare, Government of India, Nirwan Bhawan, New Delhi
2. The Joint Secretary, Ministry of Health and family Welfare, Government of India Nirwan Bhawan, New Delhi
3. The Deputy Secretary, Ministry of Health and Family Welfare, Government of India, Nirman Bhawan, New Delhi
4. The Director, All India Institute of Medical Sciences, Phulwarisharif, Patna
5. The Administrative Officer, All India Institute of Medical sciences, Phulwarisharif, Patna

... .. Petitioner/s

Versus

1. Hansmukh Jain, son of Shri Mohan Lal Jain Village-Jetana PS- Jhallara, District- Udaipur, Rajasthan, presently posed as Assistant Professor, Department of Nursing AIIMS, Patna, residing at Quarter No. 110 Type IV, Block-2 AIIMS Residential Complex, PS- Phulwarisharif, District- Patna
2. Rathish Nair, son of V.S.R. Nair resident of Village- Ramapuram, PS- Ramapuram District- Kottayam, kerala, presently posted as Assistant professor, Department of Nursing AIIMS, Patna, residing at Quarter No.102, Type IV, Block-1, AIIMS Residential Complex, PS- Phulwarisharif, District- Patna

... .. Respondent/s

Appearance :

For the Union of India : Mr. Kumar Priya Ranjan, C.G.C.

For the Respondent/s :

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 08-03-2019

The contention raised by the learned counsel for the Union of India is that the advertisement did mention an incorrect pay band, but the pay structure at the time of offer of appointment to the respondent-petitioner was to be governed by the terms of appointment which



categorically provides for the pay structure as applicable to the employees of the same status in A.I.I.M.S., New Delhi or as may be decided by the competent authority on the terms and conditions mentioned in the advertisement.

From the impugned judgment, we find that the learned counsel for the Union of India appearing before the Tribunal stated that he had not received any instruction on behalf of the Government and that he has been advised that the respondent nos.3 and 4 were the concerned parties who would represent the case on behalf of the Government of India.

The Tribunal in paragraph-8 of the impugned judgment has observed that it was for the Government of India to have pointed out if there was any error in the advertisement and they having not done so adverse inferences were drawn and the application was allowed in favour of the respondent-petitioner.

Thus, for the mistake of the appellant, the present writ petition does not deserve to be entertained by us at this stage without prejudice to the rights of the petitioners to file an appropriate review application before the Tribunal itself.



Consequently, the petition is dismissed with
the said liberty at this stage.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM/Saif

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