

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4527 of 2019

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Dr. Alka Mishra, Wife of Dr. Nirmal Kumar Chaudhary, Resident of Mohalla
- Khajasarai, P.S. Laheriasarai, District - Darbhanga (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Government of Bihar, Patna.
2. The Commissioner - cum - Secretary Department of Health, Government of Bihar, Patna.
3. The Joint Secretary Department of Health, Government of Bihar, Patna.
4. The Civil Surgeon Cum- Chief Medical Officer, Darbhanga.
5. The Superintendent, Darbhanga Medical College and Hospital, Darbhanga.
6. The Principal, Darbhanga Medical College and Hospital, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rohit Mishra, Advocate.
For the Respondent/s : Mr. Rajeshwar Singh (Ga10)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 26-03-2019

Heard the learned counsel for the petitioner and
the State.

2. The petitioner is aggrieved by the fact that she
has not been considered for being appointed as Assistant
Professor and persons inferior to her in experience and
qualification, have been appointed.

3. Learned counsel for the petitioner has drawn
the attention of this Court to the fact that earlier also
when the petitioner had applied for being appointed as
Senior Resident-cum-Tutor, her claim was bypassed
arbitrarily, forcing her to approach this Court vide C.W.J.C.



No. 9877 of 2011. A bench of this Court vide order dated 20.06.2012 expressed unhappiness in the manner in which the selection process was conducted by the Health Department and directed the concerned respondents to look into the matter and do the needful.

4. Pursuant to the aforesaid observation made by a bench of this Court in the case referred to above, the Health Department took a re-look at the matter and the petitioner was placed at a higher position in the merit list; whereafter she was appointed as a Resident/Tutor, a tenure post, for three years.

5. After having worked on the aforesaid post for four years, the petitioner applied against an advertisement which was issued in the year 2014 for being appointed as Assistant Professor.

6. Learned counsel for the petitioner has submitted that without publishing any merit list, the claim of the petitioner has been bypassed and some other person has been appointed on the post of Assistant Professor.

7. Learned counsel for the petitioner has further submitted that in the process of appointment, the Senior Resident, Tutor and Bihar Medical Education Service Cadre Recruitment Appointment and Promotion Rules, 2008 have been flagrantly violated and the person who has been appointed on the post of Assistant Professor, though has



not been made a party in the present proceeding, is not entitled to be appointed on the said post. The petitioner has also tried to draw a parity with the case of one Bibha Jha, who too had to approach this Court for being considered for appointment on the post of Resident Tutor. Her case was considered for appointment on the post of Assistant Professor and therefore, the petitioner has every expectation that if the representation of the petitioner is given a re-look by the Health Department, may be the petitioner would be found to be more suitable than the appointee, who has been offered the aforesaid post.

8. This Court, without expressing any opinion over the merits of the contentions raised on behalf of the petitioner, directs the respondent authorities to dispose of the representations which have been given by the petitioner on 16.06.2015, 07.06.2016, 08.12.2017 and 25.06.2018. In all the aforesaid representations, the petitioner has outlined the reasons why her claim over the post of Assistant Professor in the concerned department of the Medical College is worth considering. This Court directs the concerned respondent to look at the representations made by the petitioner referred to above and pass necessary orders in accordance with law within a period of six weeks from the date of production of a copy of this order before the concerned authority.



9. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2019
Transmission Date	

