

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No 14352 of 2014**

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Shashi Bhushan Sharma S/o Late Janardan Sharma R/o village - Mahant Maniari, P.S. Maniari, District - Muzaffarpur At Present - Posted as Laboratory Assistant, Block Bank, S.K. Medical College and Hospital Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary -cum- Commissioner, Department of Health, Medical Education and Family Welfare, Government of Bihar, Patna
2. Director in Chief, Health Services, Govt. of Bihar, Patna
3. Addl. Director (Medical Education), Deptt. of Health, Medical Education and Family Welfare, Govt of Bihar, Patna
4. The Collector, Muzaffarpur at Muzaffarpur
5. The Superintendent, Sri Krishna Medical College and Hospital, Muzaffarpur

... .. Respondent/s

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**Appearance :**

|                      |   |                                     |
|----------------------|---|-------------------------------------|
| For the Petitioner/s | : | Mr Manoj Kumar Ambastha, Advocate   |
| For the Respondent/s | : | Mr Prabhakar Jha, GP XXVII          |
|                      |   | Mr Mukund Mohan Jha, AC to GP XXVII |

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**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**

**ORAL JUDGMENT**

**Date : 03-09-2019**

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

2 Petitioner, a Class IV employee in the Health Service, has approached this Court placing reliance on the Circular dated 31.03.2011 claiming promotion from Grade IV Post to Grade III Post on the basis of the then requisite qualification of X Pass.



3 Learned counsel for the respondent-State, relying upon the averments made in the counter affidavit, has submitted that the State has come out with “Bihar Health Field Clerical Cadre Rules, 2014 (hereinafter referred to as the 2014 Rules) on 01.12.2014. Appointment to Grade III posts are being done under the provisions of the 2014 Rules. Under the old system, the petitioner was subjected to a process for promotion where he could not qualify in the Typing Test which, as per averments of the petitioner in paragraph 8 of the writ petition, appear to be correct. It is submitted by petitioner’s counsel that 2014 Rules would have no retrospective effect.

4 This Court would observe that question of retrospectivity does not arise in the instant case. If the petitioner’s claim is required to be considered then the same would be in accordance with the 2014 Rules. The petitioner, since filing of the writ petition, has also retired in May, 2015. In view of coming into force of the new Rules, this Court would not issue any direction for considering the petitioner’s claim for promotion today on the yardstick prior to 2014 Rules, more so in view of the fact that even under the old provision, petitioner’s claim was once considered, but he failed in Typing Test.



5 This Court does not find any merit in the submission of the petitioner’s counsel.

6 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

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