

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5318 of 2015

Shailendra Kumar Jha son of Late Sushil Chandra Jha , resident of Mohalla -
Khajasarai, New Colony, P.S. - Laheriasarai, District- Darbhanga.

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Health Department , Government of Bihar, Patna.
3. The Director -in-Chief , Health Services , Government of Bihar, Patna.
4. The Executive Director , State Health Society, Bihar.
5. The District Magistrate - cum- President District Health Committee,
Madhubani.
6. The Civil Surgeon-cum- Member Secretary, District Health Committee,
Madhubani Respondents

Appearance :

For the Petitioner	:	Mr.Manish Kumar No 13, Advocate Mr. Rohit Kumar, Advocate
For the Respondents	:	Mr.Raghwanand, GA 11 AC to GA 11

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 22-01-2019 Writ petition has been filed challenging order dated
11.2.2015 whereby the petitioner's claim that he may be taken
back in service upon completion of his Post Graduate degree,
has been rejected.

Brief facts are that the petitioner, while working on a
contractual basis as a doctor in the Government, has sought
permission to avail off Post Graduate Medical education. It is
submitted by petitioner's counsel that on completion of his
degree he was entitled to be taken back in service as he had
gone availing leave for higher education in terms of Clause 5.4
(a)(i) of the Post Graduate Medical Admission Test (PGMAT)-
2012 Prospectus against the 50% of the seats in Post Graduate



Diploma courses reserved for Medical officers in the Bihar Government Service. Petitioner's counsel has relied upon permission granted to him under order dated 8.5.2012.

Learned counsel for the respondents referring to modified order dated 15.5.2012 has pointed out that the permission granted on 8.5.2012 was modified and the petitioner was relieved on 15.5.2012. Such modified relieving of the petitioner has never been challenged by the petitioner and therefore he cannot be permitted to place reliance on the permission order dated 8.5.2012 which stood modified by the order dated 15.5.2012. An objection however has been raised in the counter affidavit filed on behalf of respondent no.6 that without exhausting the provision of appeal before the Executive Director of the State Health Society the petitioner has rushed directly to the Court.

Learned counsel for the petitioner however submits that under similar circumstances where another contractual doctor Mr. Aftab Alam had left for higher studies, his case was considered in his favour and he was taken back under order dated 15.5.2013 issued by the General Administration Department.

If that be so, the petitioner would be at liberty to raise



his claim before the Executive Director, State Health Society against order dated 11.2.2015 impugned in the instant writ petition.

It is needless to say that if the petitioner's claim is similar to that of Md. Aftab Alam he would be entitled to similar treatment in the matter, more so in light of the provisions contained in Clause 4(C) 1 of the State Litigation Policy, 2011.

Writ petition is disposed of with the aforesaid liberty to the petitioner.

(Madhuresh Prasad, J)

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