

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13489 of 2017

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Dr. Kaushlendra Kumar S/o of Arvind Kumar Sinha Resident of Village-
Jalalpur, P.S.-Warsaliganj, District-Nawada at Present Posted as Lecturer
in Rajkiy R B T Homeopathik Medical College and Hospital, Muzaffarpur

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Special Secretary Govt. of Bihar, Health Department, Patna
3. The Director, Deshi Chikitsa, Deshi Chikitsa Directorate, Health
Department Bihar, Patna.
4. The Principal Rajkiy R B T S Homeopathik Medical College and Hospital
Muzaffarpur
5. The Secretary Bihar Public Service Commission Bailey road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Prasad, Adv
For the BPSC : Mr. Rajni Kant Jha, Adv

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 21-01-2019

Heard the learned counsel for the petitioner as

well as the B.P.S.C.

2. The petitioner has approached this Court for

two reliefs; one being his regularization on the post of

Lecturer in the Practice of Medicine (PM) for RRBTS

Homeopathic Medical College & Hospital, Muzaffarpur, on

which post, he has been teaching since January, 2015 and

the secondly for modifying the advertisement issued by the

B.P.S.C. vide Advertisement No. 34/17 for inviting



applications for appointment of Lecturers in the Department of Practice of Medicine (PM) in Homeopathic College & Hospital.

3. The petitioner, pursuant to an advertisement issued by the B.P.S.C. in the year 2013 had been empanelled for being appointed on the post of Lecturer in the Practice of Medicine (PM) in the Government Homeopathic College. Because of his being successful in getting empanelled, he was asked to teach in the Muzaffarpur Homeopathic College but the nature of his appointment remained contractual and subsisted only for a period of one year, subject to further extension. In the year 2017, after receiving a requisition from the State of Bihar in its Health Department, the advertisement in question was issued showing two vacancies in the Department of Practice of Medicine (PM). Out of two vacancies, one was reserved for scheduled cast and the other was earmarked for general category(female). It is on this post that the petitioner has been working since 2015. Since the aforesaid reservation was made despite the petitioner having participated in the



appointment process, his claim was rejected.

4. The learned counsel appearing for the petitioner has raised a grievance that in the first instance, such advertisement should not have been issued and if at all it has been issued, it ought not to have contained the clause of reservation with respect to the post of Lecturer in the Department of Practice of Medicine (PM). Since there were only two posts available in the aforesaid discipline, one having been reserved for the scheduled cast, reserving the second one for a female in the general category would amount 100 percent reservation, which is impermissible.

5. The other ground of challenge is that since the petitioner has been working on the same post since 2015, he should not have been replaced by another appointment process without any complaint against him.

6. Both the aforesaid grounds have only been noted to be rejected.

7. The initial appointment of the petitioner on the post of Lecturer in the discipline of Practice of Medicine (PM) in a Homeopathic College was only by virtue of his being



empanelled for the same. Thus, his appointment letter clearly indicates that it is provisional/ temporary/ contractual appointment for a year. This leaves the petitioner with no claim to continue on the said post in the said college.

8. The B.P.S.C. has acted on the requisition of the State of Bihar in the Health Department in the issuance of the aforesaid advertisement. The clauses in the advertisement were incorporated on the basis of the recommendations of the State Health Department wherein an opinion was given that 35 percent reservation of female category is to be given effect to. Any reservation of a woman comes in the category of vertical reservation, which even though has the impact of fulfilling all seats of general category, cannot be faulted on the ground of Articles 14 and 16 of the Constitution of India.

9. This Court has also taken note of the fact that petitioner has participated in the appointment process and only after his claim was rejected on the ground of non-availability of any vacancy, that the present petition has been filed.



10. For all these reasons, this Court has no difficulty in holding that the petition does not have any merits and the same is therefore dismissed.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
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