

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10670 of 2011

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MOKHTAR SINGH S/o Late Daroga Singh, R/o Village-Nilkanthpur, P.S.-
Suryapura, Distt.- Rohtas.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Principal Secretary, Health Deptt., Bihar, Patna.
3. The Director-in-Chief, Health Deptt., Bihar, Patna.
4. The Secretary, Co-Operative Deptt., Govt. of Bihar, Patna.
5. The Managing Director, Bihar State Co-operative Marketing Union,
Biscoman Bhawan, Patna.
6. The Development Commissioner, Deptt. of Planning and Development,
Govt. of Bihar, Patna.
7. The Registrar, Co-Operative Societies, Co-operative Deptt., Govt. of Bihar,
Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Sanjeev Kumar and Priya Ranjan, Advs.
For the Respondent/s : Mr.Kunal Tiwary AC to GA 2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 12-03-2019

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

2. In this case, the petitioner is seeking relief of absorption
in the services of the State of Bihar on the strength of order passed by
this Court in L.P.A. 608 of 2006, Avinash Vatsyayan vs. the State of
Bihar and its analogous cases (Annexure-6 to this petition).

3. The petitioner was working in the BISCOMAUN. The
financial condition of the BISCOMAUN had deteriorated and the
Management was not in a position to pay the salary to its employees
became sick under the policy decision of the State Government. The
employees working in the sick industries under the policy of



rehabilitation they were brought and placed in the different departments of State of Bihar and viable corporation. In the present case also, the petitioner having been brought on the Health Department as Refrigerator Operator and continued to discharge the duty and ultimately he has superannuated from service in the year 2017, but for the reason best known to the department that other identical persons, who were working in the different departments under the policy, were regularised in the service of the State Government. The petitioner is seeking nothing extra but same treatment as has been given to the similarly situated persons who were brought on different organizations of the State Government under rehabilitation policy and finally they have been absorbed.

4. The State has filed a counter affidavit. There is no denial of the fact that the Government has ever taken any decision for repatriation or absorption. When the others who were in the same class have been granted the benefit of absorption, the equality demands the same treatment to the petitioner also, otherwise it will lead to an arbitrary exercise of power by the respondent authority. The counsel for the State has submitted that the Government has taken a policy decision in the year 2018 with regard to taking into consideration the case of those who are working in the department. As the petitioner has already superannuated from service in 2017, the question of absorption does not arise in view of policy decision of 2018 whereas the petitioner has superannuated from service in 2017, in such circumstances, the policy



which has been framed in 2018, does not apply in the present case, but only applies to the judgment of this Court with regard to grant of benefit of absorption to the petitioner.

5. In such view of the matter, this Court directs the respondents to take a decision with regard to the petitioner in relation to grant the benefit of absorption taking into consideration the judgment of this Court passed in Avinash Vatsyayan vs. the State of Bihar including its analogous cases (Annexure-6 to this petition) and if the State takes a decision in favour of the petitioner, it goes without saying, he will also take a decision with regard to entitlement of the petitioner with regard to the consequential benefit. All the process should be completed within a period of three months from the date of receipt or production of a copy of this order.

6. Accordingly this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

mkchy/-

AFR/NAFR	NAFR
CAV DATE	N/A
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