

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15846 of 2012

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Upendra Kumar Mishra S/O Late Mahendra Nath Mishra R/O Village- Bagha
Bankatwa, Post and P.S.- Bagha, District- West Champaran At Betia

... .. Petitioner

Versus

1. The State Of Bihar
2. The Principal Secretary, Health Department, Govt. Of Bihar, Patna
3. The Deputy Secretary, Health Department, Govt. Of Bihar, Patna
4. The Principal Secretary, General Administration, Govt. Of Bihar, Patna
5. The Deputy Secretary, General Administration, Govt. Of Bihar, Patna
6. The Principal Secretary Public Health And Engineering Department, Govt. Of Bihar, Patna
7. The Project Director Bihar Project Education Council-Cum-Secretary, Public Relation Department, Govt. Of Bihar, Patna
8. The District Magistrate, West Champaran, Betia
9. The Deputy Superintendent, Sub-Divisional Hospital, Bagha
10. The Civil Surgeon, Sub-Divisional Hospital, Bagha

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Adv. Mr. Mukesh Kumar Singh, Adv.
For the Respondent/s	:	Mr. Manoj Kumar Yadav, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 23-01-2019

Heard Mr. Rajeev Kumar Singh, learned Counsel for the petitioner and Mr. Manoj Kumar Yadav, learned AC to GA-10, for the State.

It is feeling aggrieved by the order bearing memo no. 3999 dated 13.10.2010 passed by a Committee of three Senior Officers in the State Government including the Principal Secretary, General Administration Department, the Principal Secretary, Public Health Engineering Department and the Project Director, whereby the claim of the petitioner for regularization on the post



of Driver in the respondent Health Department has been rejected, inter alia, on ground that his initial appointment by the Deputy Superintendent, Sub-Divisional Hospital, Bagha, West Champaran was not legal as a Deputy Superintendent has no jurisdiction to make such appointment even on daily wages, that he is before this Court.

It is not in dispute that the petitioner was appointed on daily wages by the Deputy Superintendent on 17.01.1988 vide order placed at Annexure-5. He continued as such and in between his case was also recommended for regularization which did not succeed leading to filing of writ petition arising from CWJC No. 11720/1996 which was disposed of on 25.01.1999 with the direction to the respondents to consider his case for regularization after giving age relaxation. This order is enclosed at Annexure-12 to the writ petition. No steps were taken rather vide memo no. 215 dated 11.08.2005 the petitioner was relieved of his duties vide order placed at Annexure-14. He moved this Court through CWJC No. 2011/2005 and which writ petition was heard analogous with the other writ petitions, all concerning reliefs relating to regularization on respective posts. By a common order dated 12.02.2007, the writ petitions were disposed with the direction to the respondents to constitute a Committee to examine the claim of



regularization so prayed for by the writ petitioners including the petitioner and pass appropriate orders bearing in mind the stipulations set out in the order. The case of the petitioner was examined and by the order impugned dated 13.10.2010 has been rejected and hence, the writ petition.

The situation thus is that the petitioner having been relieved of his duties with effect from 11.08.2005, his claim for regularization has also been rejected vide memo no. 3999 dated 13.10.2010.

Mr. Singh, learned Counsel for the petitioner though has tried to persuade this Court as to the legality in the initial appointment of the petitioner for questioning the impugned order which is contested by learned Counsel for the State in reference to the advisory present at Annexure-A to the counter affidavit filed but in my opinion, the contest has been rendered academic by passage of time because the petitioner feeling aggrieved by the order rejecting his plea for regularization passed on 13.08.2010 took two years to question this order by filing this writ petition in 2012, while the writ petition remains pending before this Court, the petitioner has crossed the age of superannuation prescribed for an employee under the State Government. In such view of the matter, the issue raised has been rendered academic and in which



circumstance, I do not deem it necessary to express my opinion on the lawfulness of the initial appointment of the petitioner or on the legitimacy of the order passed by the Committee impugned herein.

The writ petition is disposed of as having been rendered infructuous by passage of time.

(Jyoti Saran, J)

Archana/
Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.02.2019
Transmission Date	NA

