

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24583 of 2018

1. Dr. Alka Sharan W/o Ashok Kumar Sharan R/o-Flat No.-102, Maa Vindhwasani Complex, Sheikhpura More, P.S-Shashtri Nagar, Distt.-Patna.
2. Dr. Rajendra Prasad S/o Late Rambilash Yadav R/o-R.P.S., Pasupati Vihar Colony, P.S-Rupaspur, Distt.-Patna.
3. Dr. Jitendra Kumar Singh S/o Sri Rajeshwar Pd. Singh R/o-Qtr No.2, Road No.5, Bihar Veterinary College Campus, P.S-Airport, Distt.-Patna, Bihar
4. Dr. Ramesh Chandra Prasad Yadav S/o Sri Ramswarup Prasad R/moh-Damadia, Road No.10, P.S-Gardanibagh, Patna.
5. Dr. Upendra Prasad Gupta S/o Late Muneshwar Prasad R/villPO-Dumri, Via Deo, P.S-Amba Kutumba, Distt.-Aurangabad, Bihar
6. Dr. Surendralal Pd. Yadav S/o Late Kamleshwari Pd. Yadav R/o-Raghonandan Path, Bank Mens Colony, P.S-Patrakar Nagar, Distt.-Patna.
7. Shailendra Kumar S/o Late Sri Ramgati Sharma R/vill-Chesi, P.S-Naubatpur, Distt.-Patna.
8. Dr. Suresh Prasad S/o Late Mohan Mahto R/vill-Balmichak, P.O-Anisabad, Patna
9. Dr. Ramnaresh Sinha S/o Late Ram Narayan Mahto R/moh-Subhash Nagar, P.O-Kolhua Paigambarpur, P.S-Ahiyapur, Distt.-Muzaffarpur.
10. Dr. Subelal Prasad S/o Ramlakhan Prasad R/o-Manglanagar, near Kidzee School, Ramchandrapur, P.S-Laheri, Distt.-Nalanda.
11. Dr. Bhavesh Gopal Dev S/o Sri Nanddeo Mandal R/moh-A.G. Colony, P.S-Shashtri Nagar, Distt.-Patna.
12. Dr. Kailash Pd. Yadav S/o Sri Ramchandra Pd. Yadav R/o-Teacher's Colony, Ward No.14, P.S-Khagaria, Distt.-Khagaria.
13. Dr. Sunil Kumar Singh S/o Late Bharosa Singh R/o-H.No.-B-05, Shivajee Chowk, P.S-Ramkrishna Nagar, Patna
14. Dr. Niranjan Kumar S/o Late Tarni Prasad Ram R/o at P.O-Mathurapur, P.S-Kahalgaon, Distt.-Bhagalpur.
15. Mohammad Ejaz Ahmad S/o Late Abdul Mannur R/o-Flat No.304, Shukti Sadan Apartment, Ashiyana More, P.O-Bihar Veterinary College, Distt.-Patna
16. Dr. Vijay Singh S/o Late Grahadev Singh Resident at Lane No. 4A, Vijay Nagar, Rukanpura, P.O-Bihar Veterinary College, Distt.-Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Department of Animal Husbandry and Fisheries, Govt. of Bihar, Patna
3. The Principal Secretary, General Administrative Department,
4. The Principal Secretary, Finance Department, Govt. of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bindhyachal Singh
Advocate
Mr. Sudhir Kumar Singh
Advocate
Ms. Bandana Singh



For the Respondent/s : Advocate
Mr. Sajid Salim Khan
SC-25

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT
Date : 29-01-2019

Heard Mr. Bindhyachal Singh, learned counsel for the petitioners and Mr. Sajid Salim Khan, learned advocate for the State.

The petitioners who are serving as Veterinary Doctors under the Bihar Veterinary Service Cadre have come to this Court for a direction to the respondent authorities to enhance their age of superannuation from 60 years to 65 years in the light of a decision of the State of Bihar contained in Resolution No. 3A-4SeNI-10/2008.11637, dated 27.12.2011 and the Circular of the Finance Department dated 12.03.2013 and for a further declaration that their services, if treated at par with other Health Services Cadre of the State of Bihar, namely, Health Education Cadre; the Cadre of Dentistry; Homeopathy; and Indigenous Medicines, there is no reason why the same age of superannuation be not fixed for the members of Bihar Veterinary Service Cadre.



Learned counsel for the petitioners has drawn the attention of this Court to the fact that at the time of appointment of the petitioners, their age of retirement was 58 years which was the age of superannuation of all the services under the State of Bihar. Thereafter, the age of superannuation was enhanced from 58 years to 60 years for all the services. Afterwards, an amendment was carried out in Rule 73 of the Bihar Service Code in the year 2009 whereby the retirement age of members of Bihar Health Service as well as Bihar Medical Service Education was enhanced to 62 years. A parity was also given, in matter of superannuation, to the cadre of Indigenous Medical Education Service as well. Thereafter, in the year 2010 another amendment was made in Rule 73 of the Bihar Service Code, extending the age of superannuation of Insurance Medical Service Cadre to 62 years. This followed suit and in all other services of similar cadre, the age of retirement was extended to 62 years from 60 years. Now, the age of superannuation for the Bihar Health Service Cadre has been extended to 65 years.



Learned counsel for the petitioners has also drawn the attention of this Court to an order passed by a Bench of this Court in Dr. Surfey Alam Vs. the State of Bihar and Ors., C.W.J.C. No. 10431 of 2012, wherein the Homeopathic Medical Officers were also directed to be treated at par with other services where the age of superannuation was fixed at 62 years.

Learned counsel for the petitioners has submitted that for all practical purposes there is no separate classification of the petitioners being members of Bihar Veterinary Service Cadre. Though, apparently their services may appear to be different with a perceived separate classification from other doctors as they are Veterinary Doctors but for all practical purposes, such classification is only ephemeral and not substantial.

This Court is cognizant of the position of law that fixation of age of retirement is largely in the domain of executive policy which in turn is dependent on the need of the administration. It is also true that in the realm of policy making, the State / employer has a wide choice but the width



of the choice ought not to be exercised with any arbitrariness in its way. It would be necessary to indicate that the spirit, which is an integral part of any policy governing the fixation of retirement age of employees, is to provide employment for the youth and in such an event, it has to be balanced with the rights of an employee with regard to the tenure of their service. The age of superannuation is in a way a terminal point where the duration of the employment ends. The employer has to be extra careful and has to look after the different dimensions of social life as any decision in that regard would have the potential of shaping the lives of a society / State / nation. It would not be a fair policy to make any illusory classification or distinction between employees so far as their tenure or age of superannuation is concerned. What is vital for a citizen or an employee is also vital for the health of the nation. True it is that a Court cannot embark upon the job of fixing the correct / proper age of retirement of an employee but the Court cannot also, at the same time, countenance any differential treatment to employees who can be classified in one group. The only classification which can be thought of by the



State in not enhancing the age of superannuation of the Veterinary Doctors is that they form a separate class of doctors than the others who practice Indigenous Medicine, Dentistry or Homeopathy. Otherwise, there would have been no reason for not extending the same benefit to the members of Bihar Veterinary Service Cadre.

Mr. Sajid Salim Khan, learned SC-25 fairly submits that this aspect of the matter is under active consideration of the Government of Bihar, which fact would also be evident from the public disclosure made by the Chief Executive of the State only yesterday and which forms a prominent news item of today.

With such stand of the State, this Court only directs that the petitioners, in order to facilitate taking of any decision in that regard at the earliest, to represent before the Principal Secretary, Department of Animal Husbandry and Fisheries, Government of Bihar, Patna enclosing a copy of this Order within a period of three weeks from today, which shall be responded to within a reasonable period of time, preferably



within a period of four weeks of the receipt of such representation.

With the aforesaid observation / direction, this writ petition is disposed off.

(Ashutosh Kumar, J)

skm/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	30.01.2019
Transmission Date	

