

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11204 of 2019

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Brahmanand Yadav S/o Late Manayan Yadav, R/o Village- Kamkulaha, P.S.-
Sonbarsha, District- Saharsa . Pin- 852217.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health,
Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The director in Chief, Health Services, Government of Bihar, Patna.
4. The Civil Surgeon-cum-Chief, Medical Officer, Purnea.
5. The Collector of Purnea.
6. The Deputy Collector Establishment Purnea.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjit Jha
For the Respondent/s : Mr.S.D. Yadav (Aag9)

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 17-06-2020 Heard Mr. Ranjit Jha, learned counsel appearing on

behalf of the petitioner and learned counsel appearing on behalf

of the State.

The petitioner has filed the writ petition stating that initially the petitioner along with others was appointed as Pariwar Kalyan Karyakarta in the Health Department pursuant to advertisement nos. 38/81, 42/81 and 45/81 dated 10.08.1981 whose services were terminated and thereafter the matter was taken to the High Court and the High Court declined to interfere. Subsequently pursuant to memo No. 74(22) of Director, Health Services dated 24.02.1987, the petitioner and



others were reinstated. The petitioner was again terminated pursuant to Directorate letter dated 29.01.2019. The issue with regard to appointment was finally decided in LPA No. 499 and 535 of 1995. Pursuant to the order passed in LPA 297 of 2011, a Committee was directed to be constituted under the Chairmanship of Hon'ble Mr. Justice Uday Sinha (Retired) to examine the validity of appointment of petitioner and others. On the recommendation of Hon'ble Mr. Justice Uday Sinha Commission, the petitioner and five others were reinstated on 16.11.2011.

Learned counsel appearing on behalf of the petitioner would submit that the name of the petitioner figures in the panel of 1981 and thereafter some of the persons were appointed from the panel of 1991 whereas the petitioner's case was ignored. He further submits that those who were in panel of 1991 were reinstated and the matter of appointment of the petitioner was ignored. Learned counsel for the petitioner submits that those who were appointed out of 1991 panel, were junior to the petitioner in the panel, but they have been granted the benefit of post retiral benefits whereas in the case of the petitioner, respondents have taken a decision to deny the pensionary benefits because the respondents are treating the appointment of



the petitioner as fresh appointment. Learned counsel for the petitioner would submit that reappointment of the petitioner should be treated to be in continuation of first appointment out of selection process of 1981.

The grievance of the petitioner relates to discrimination in granting post retiral benefits. Considering the totality of the facts and circumstances, the Court is of the view that if any person who was appointed on the recommendation of the Committee of Hon'ble Mr. Justice Uday Sinha has been granted pensionary benefits, in that case the respondents are under obligation to consider the case of the petitioner on similar footing and take corrective measures as two different yardsticks cannot be adopted for similarly circumstanced reappointed persons on the basis of the recommendation of the Committee of Hon'ble Mr. Justice Uday Sinha.

Considering the aforesaid, the writ petition is disposed of with a direction to the respondents either to grant the same benefit to the petitioner if other similarly circumstanced persons on the basis of the recommendation of the Committee of Hon'ble Mr. Justice Uday Sinha are enjoying the post retiral benefits or they have to rectify the mistake, if any, after compliance of natural justice. The entire exercise in this regard



must be completed by the respondents at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction, the writ petition is disposed of.

(Anil Kumar Upadhyay, J)

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