

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16997 of 2015

Dr. Rajendra Prasad, son of Late Ram Parvesh Singh, resident of Mohalla-
Oriental College Lane, Guzari Bazar, Patna City, P.S.- Khazekala, P.O.-
Mahendru, District- Patna

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Finance, Government of Bihar, Old Secretary, Patna
2. The Principal Secretary, Department of Finance, Government of Bihar, Old Secretary, Patna
3. The Additional Secretary, Department of Finance, Government of Bihar, Old Secretary, Patna
4. The Joint Secretary, Department of Finance, Government of Bihar, Old Secretary, Patna
5. The Principal Secretary, Department of Health, Medical Education and Family Welfare, New Secretariat, Government of Bihar, Patna.
6. The Medical Council of India, Sector-8, Pocket 14, Dwarka, New Delhi-110077

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. P.K.Shahi, Sr. Advocate Mr. Vikash Kumar, Advocate.
For the Respondent/s	:	Mr. Kumar Brijnandan, Advocate .

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

32 04-12-2020

Petitioner has prayed for the following relief(s):-

(i) For a declaration that the amendment to Bihar Service Code 1952 by Bihar Service (Amendment) code 2015 issued vide notification No. 3-A-5-S.R.-10/2008 (Part) -6745 Patna, dated 30.07.2015 is ultravires to the provisions contained in Article 14 and 16 of the constitution of India.

(ii) For a declaration that the enhancement of



date of retirement of the Doctors of the Bihar Medical Education Service, Doctor of the Bihar Health Service and Doctor and Teacher of Ayush Indigenous System (Ayurved, Unani and Homeopathy) from 65 years to 67 years vide impugned notification, whereas the date of retirement of other state government employees performing similar function remained to 60 years has no rational relation to the object sought to be achieved.

(iii) For a declaration that the continuance of Doctors of Bihar Medical Education Service, Bihar Health Service and Doctors/Teachers of Ayush indigenous System (Ayurved, Unani and Homeopathic) above the age of 65 years intringes the fundamental right consideration of promotion of similarly situated employees down below in seniority list.

(iv) For a declaration that the enhancement of date of retirement from 65 years to 67 years has not been made on the recommendation of fitment committee or any special Committee for the purpose and has been made on the misrepresentation at the level at the Department of Health, Medical Education and Family Welfare, Govt. of Bihar, Patna for benefit of certain individual and accordingly are arbitrary and unreasonable.

(v) For a declaration that the object of impugned amendment to combat the threat of medical council of India for derecognition of Medical College of state of Bihar has no reasonable nexus with enhancement of retirement age of existing doctors



from 65 years to 67 years rather it takes away the right of new incumbents of their right of employment and further their continuance takes away right of promotional avenues of other existing employee at all levels.

(vi) Alternatively, for issuance of appropriate writ/writs, order orders, direction/directions in the nature of mandamus Commanding the respondent authorities to follow the instruction of Ministry of Health & Family welfare, Govt. of India communicated vide office memorandum dt. 24.02.2012 whereby the Doctors above the age of 62/65 years have been debarred from holding the administrative posts of the Director, Principal, Dean, Medical Superintendent and Addl. Medical Superintendent to combat the alleged threat of MCI and further direct the respondent department to utilize the experience and guidance their services confined to the teaching post only in public interest.”

We have freely interacted with Shri Pratyay Amrit, Principal Secretary, Health Department, Government of Bihar, Patna

We have also perused the affidavit dated 03.12.2020. We have no reason to disbelieve with the information furnished by the Principal Secretary of the endeavour now being taken by the State to fill up the posts which are lying vacant within the State of Bihar.



Also, we are informed that the State is introducing reforms which in the long run would prove to be effective in ensuring that there would be no vacancy.

Also, steps for filling up the posts, on permanent basis, as indicated in para-5 of the affidavit, shall be taken with reasonable dispatch.

In view of the same, we close the present proceedings reserving liberty to the petitioner to highlight the issue of the public interest warranting interference by this Court.

Interlocutory application, if any, shall stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

U			
---	--	--	--

