

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7362 of 2020

Dr. Satyendra Kumar Tiwari Son of Late KamlaKant Tiwari, Permanent resident of Village- Paspipra, Post Office- Shukulpipra, P.S.- Mohania, District- Kaimur (Bhabua). At present residing at B- 204, The Grand Residency, Kanak Vrindawan Township, Sirsi Road, Jaipur, P.S. Bhakrota, District- Jaipur (Rajsthan).

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Govt. of Bihar, New Secretariat, Patna.
2. The Special Secretary, Department of Health, Govt. of Bihar, Patna.
3. The Under Secretary, Department of Health, Govt. of Bihar, Patna.
4. The Director of Ayush, Ayush Nideshalaya, Health Department, Govt. of Bihar, Patna.
5. The Principal, Govt. Ayurvedic College, Patna.
6. Siba Prasad, Son of Durga Charan Nayak, Resident of Divyadham Yogashram, C.T. Road Puri, P.S. Puri, District- Puri (Odisha).

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ashok Kumar Garg, Advocate
For the Respondent/s	:	Mr. Ajay Bihari Sinha, GA-8
		Mr. Neeraj Raj, AC to GA-8

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 20-12-2021

Heard learned counsels for respective parties.

In the instant petition, petitioner has prayed for the following reliefs:-

“(i) For quashing of memo No. 602 (Aa. Chi.) dated 01.07.2020 issued by Under Secretary to Govt. Health Department, Bihar Govt. Whereby it was directed to the Principal, Govt. Ayurvedic College, Patna, Begusarai and College, Patna, Begusarai and Darbhanga to appoint the suitable candidates suitable candidates on the post of Professor, Panchkarma (contractual) as well as memo No. 828 dated 4.07.2020 by the Principal, Govt.



Ayurvedic College, Patna/ respondent no.5 to the respondent no.6 whereby it is directed to join the respondent no.6 on the post of Professor, Panchkarma(Contractual) in Govt. Ayurvedic College, Patna.

(ii) For issuance of an appropriate writ, order or direction in the nature of mandamus directing the respondent authorities to declare the final result for the Post of Professor, Panchkarma (Contractual) on the official website or daily and further newspaper, thereafter accept the joining of respondent no.6 appoint the petitioner on the post of Professor, Panchkarma (Contractual) in Govt. Ayurvedic College, Patna in place of respondent no.6 because the petitioner is more suitable candidates from respondent no.6 and he has more quality marks from the respondent no.6.

(iii). For grant of any reliefs the petitioner would be found entitled to in the facts and circumstances of the case.”

Petitioner has assailed the selection and appointment of sixth respondent to the post of Professor Panchkarma (contractual). Pursuant to the Advertisement No. 01 of 2019 dated 22.10.2019. Petitioner and sixth respondent were candidates for the post of Professor Panchkarma. The qualification prescribed for the post is degree with five years experience in the concerned subject. The petitioner possessed the P.hd. degree of Kaya Chikitsa and he has obtained such degree in the year 2006. Sixth respondent is stated to have secured post-graduate in Panchkarma after



06.10.2010, the date on which the qualification of Kaya Chikitsa was re-classified. The petitioner has secured 33 marks and sixth respondent has secured 30 marks. The petitioner has been denied selection and appointment on the score that he did not have five years teaching experience in the concerned subject namely Panchkarma.

Perusal of Notification dated 06.10.2010 of Central Council of Indian Medicine called Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) (Amendment) Regulations, 1989 and amended vide Regulations Amendment, 2005. Item No. 5 read with subject discipline and description namely Panchkarma and Kya Chikitsa reads as under:-

“5. Under paragraph of 14 under the heading of the Note new Sl. No. 8 shall be inserted as under:-

<i>Subject</i>	<i>Discipline of Post-graduate</i>
<i>8. Panchkarma</i>	<i>Kayachikitsa”</i>

The aforesaid material information suffice that even though petitioner is having Post-graduate Kaya Chikitsa but it is in the Panchakarma subject only, therefore, the petitioner fulfills the condition that he has fulfilled five years teaching experience in the concerned subject namely Panchkarma, therefore, denial of selection and appointment to the post of Professor Panchkarma pursuant to the advertisement dated 22.10.2019 is not in order.



At this stage, it is to be noted that selection and appointment to the post of Professor Panchkarma is for a period of one year. Sixth respondent was appointed on 04.07.2020 he has been continued beyond one year in view of clause imposed in the advertisement that such contract appointment would continue till next recruitment. In other words, sixth respondent has been continued beyond the prescribed period.

In the light of these facts and circumstances, order of the appointment of the sixth respondent dated 04.07.2020 to the post of Professor Panchkarma is hereby set aside. Accordingly, the present petition stands allowed.

The concerned respondent is hereby directed to appoint petitioner to the post of Professor Panchkarma. Such appointment to the petitioner shall be issued forthwith. The appointment to the aforesaid post would be in vogue till next recruitment to be advertised by the respondent.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

