

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1249 of 2021

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1. Dr. Rakesh Ranjan, Son of Braj Kumar Singh, Resident of Braj Geet Kunj, Indrapuri Colony, Raja Bazar, Near Indian Gas Godown, Rukanpura, B.V. College, Danapur, P.S. Shashtrynagar, District-Patna.
 2. Dr. Santosh Kumar Mishra, Son of Krishna Bihari Mishra, Resident of Flat No. 201, C.M. Balaji Complex, Ashok Nagar, Road No. 1/F, Kankarbagh, P.S. Kankarbagh, District-Patna.
 3. Dr. Sanjay Kumar, Son of Rampramahans Singh, Resident of M I G -138, Yosoda Devi Path, Kankarbagh, Lohia Nagar, P.S. Kankarbagh, District-Patna.
 4. Dr. Ashutosh Kumar, Son of Shailendra Kumar, Resident of Flat NO. 204, Saryu Apartment, Buddha Colony, P.s. Buddha Colony, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar Through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Additional Secretary, Department of Health, Government of Bihar, Patna.
4. The Secretary Bihar Technical Service Commission,
5. Dr. Sujeet Kumar Son of Rameshwar Prasad Resident of Sarvodaya Nagar, Ward no. 7, Near Hanuman Mandir, Bibiganj, Muzaffarpur, Dist.-Muzaffarpur.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 1265 of 2021

1. Dr. Anil Kumar Tiwari, Son of Paras Nath Tiwari, Resident of Patliputra Colony, Boring Road, P.S.-Patliputra, District-Patna.
2. Dr. Harsh Vardhan, Son of Manoranjan Prasad, Resident of Flat No. 501, P.V. Complex, West Boring Canal Road, Opposite Vishnu Place, P.S.-Shri Krishnapuri, District-Patna.
3. Dr. Munish Kumar, Son of Mishri Lal Roy, Resident of Near Hajipur Railway Station, Gandhi Ashram, P.s. Hajipur, District-Vaishali.
4. Dr. Upendra Narayan Singh, Son of Ram Chandra Singh, Resident of Parsathua, Dangari, Sasaram, P.S. Sasaram, District-Sasaram.
5. Dr. Anupama Singh, Wife of Anil Kumar, Resident of m2-9, Shri Krishnapuri, Jay Prakash Path, Boring Road, P.S.-Shri Krishnapuri, District-Patna.
6. Dr. Pankaj Kumar Tiwary, Son of Ram Nath Tiwari, Resident of Ward No. 10, P.O.-Gopalganj, Manikpur, P.S.-Gopalganj, District-Gopalganj.



... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Additional Secretary, Department of Health, Government of Bihar, Patna.
4. Bihar Technical Service Commission, through its Secretary.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 17885 of 2021

Dr. Sujeet Kumar son of- Rameshwar Prasad resident of- Sarvodaya Nagar, Ward No. 7, near Hanuman Mandir, Bibiganj, Muzaffarpur, Dist.- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Department of Health, Government of Bihar, Patna
3. The Additional Secretary, Department of Health, Government of Bihar, Patna
4. The Principal Secretary, Department of General Administration, Government of Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 1249 of 2021)

For the Petitioner/s : Mr.Shashi Bhushan Kumar

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 1265 of 2021)

For the Petitioner/s : Mr.Shashi Bhushan Kumar

For the Respondent/s : Mr.Lalit Kishore (Ag)

(In Civil Writ Jurisdiction Case No. 17885 of 2021)

For the Petitioner/s : Mr.Shashi Bhushan Kumar

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

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

Date : 17-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioners have prayed for following reliefs:



“i. For issuance of writ in the nature of *Mandamus* directing the respondents to allow the petitioners to work on the post of Professor giving post protection on the ground that the petitioners had been appointed by the Selection Committee of the Health Department, Government of Bihar and had already worked as Professor earlier in different Medical Colleges under Bihar Government and the Bihar Government’s act of, on the pretext of regularization of the petitioner’s appointment, demotion (Lower Post) of the petitioner’s post is completely illegal, arbitrary in nature and also against the promotion rules under service jurisprudence and the mostly violative of Article 311 of the Indian Constitution.

ii. For issuance of a writ in nature of *Certiorari* to quash the Advertisement no. 07/2020 dated 01.07.20 published by the Health Department, Government of Bihar inviting applications for the employment, on contract basis, on the post of Professor and Associate Professor in different Medical Colleges under the State of Bihar from time to time by making an employment on contract basis and by substituting by another contract employment, this action of the respondents is against the repeated verdicts of the many Hon’ble High Courts and also of the Hon’ble Apex Court and also on the ground that the posting of, contractual/ad-hoc Associate Professor appointee to Permanent/Regular Assistant Professor, and, the petitioners who were working on the post of Professor on contractual/ad hoc appointment (Which is the top-most post in Medical Colleges; the Senior most post in the field of Medical Education) were also posted to the post of Permanent/Regular Assistant Professor which is the first academic posting in Medical Colleges; the junior most post in the field of Medical Education, which is totally against the service jurisprudence and also



against the principles of natural justice and violative of Right to Equality under Article 14 of the Indian Constitution.

iii. For a direction or issuance of appropriate writ in the nature of *Mandamus* commanding the respondents to allow and consider the case of the petitioners for appointment of the petitioners on the post of Professor in Medical Colleges in the State of Bihar on the ground that there are vacancies for the post of Professors in the Medical Colleges in the State of Bihar but due to government's lethargic and casual approach these posts are not filled and the competent persons for these posts have to work on the subordinate post in the absence of filling of vacancy of the post of Professors.

iv. For a direction or issuance of appropriate writ in the nature of *Mandamus* commanding the respondents to fill up the post of Professors lying vacant in Medical Colleges in the State of Bihar since a long period by posting of the contractual/ ad-hoc appointee, who had been working since a long time on the post of the Professors, in the light of the order passed by the Hon'ble Apex Court in the case of *Sanjay Singh & Ors. Vs. State of Uttar Pradesh*, whereby the Hon'ble Apex Court held that "*We need emphasize that education in a very important role performed by a state apart from the area of medial assistance to citizens and thus it is necessary that the full benefit is extended to student which can only take place if the full strength of teachers is available at the requisite time*".

v. For a direction to respondents to not fill up the post of Professors time to time by making an employment on contract basis and moreover not substitute it by another contract employment which action of the respondents is against the repeated verdicts of this Hon'ble Court as also of the Hon'ble Apex Court.



vi. For a direction to respondents to make necessary arrangement to fill up the vacant posts of Professors in Medical Colleges in the State of Bihar by posting of contractual/ ad-hoc appointee Professors on permanent/regular basis or if needed more, then, by appointment of Professors through fresh vacancy so that the condition of Medical Education remains in healthy state.

Vii. For a direction to the respondents to honour its own policy of regularization of contractual employee which has been don on the report of the high level committee allowing the contract employee till regular appointment/ promotion or attainment of age of superannuation and give weightage to the post of the Professors.

viii. For direction the respondents to give all consequential benefit to the petitioners along with petitioners' appointment at the post of the Professors at Medical Colleges in the State of Bihar in the light of the directions given by the Hon'ble Apex Court in *Sanjay Singh & Ors. Vs. State of Uttar Pradesh* whereby the Hon'ble Apex Court directed that "*The Other aspect is that apart from the weightage, the period which has been verified as having been spent in teaching a adhoc, would be counted for purposes of retiral benefit of the TGTs and Lecturers*".

ix. And for any other reliefs for which the petitioners be found entitled in the eye of law."

3. The concerned respondent is hereby directed to examine whether petitioners' grievance is on par with the decision of the Apex Court dated 26.08.2020 (Annexure- P/10) or not? If the petitioners' case is not covered by the aforesaid decision of the Apex Court, necessary speaking order shall be passed and



communicated to the petitioners, above named, within a period of two months from the date of receipt of this order.

4. Accordingly, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

