

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13619 of 2019

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Ranjit Kumar Singh @ Ranjit Singh, Son of Late Baijnath Singh, Resident of Village-Rasalpura, P.S.- Doriganj, District-Saran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Health, Government of Bihar, Patna.
4. The Under Secretary, Department of Health, Government of Bihar, Patna.
5. The Principal, Patna Medical College and Hospital, District Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr.Prabhat Ranjan, Advocate Mr. Chandan Kumar, Advocate
For the Respondent/s	:	Mr.Pankaj Kumar, S.C.-12

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 11-02-2021

After a very detailed argument, the issue boils down to the fact that the petitioner's claim for seniority-cum-choice positing has not been considered in spite of the direction of this Court earlier in CWJC No.5150 of 2019, whereby and whereunder the petitioner was allowed an opportunity to represent his claim before the authority for its consideration.

2. The learned counsel representing the petitioner submits that the petitioner's claim for seniority-cum-choice posting is dependent upon that he being senior under the extant policy in this regard. The seniority has been upset by granting *in*



situ promotion in the meantime, that also with effect from the date of joining by the various persons in the Department who were given *in situ* promotion.

3. The issue can be settled only if the various Doctors in the Department are allowed their promotion to various posts-- Associate Professor and Professor--with effect from the date on which they became eligible for them, rather than leaving them to be determined on the date on which they assume charge. In support of his claim for being allowed the seniority with effect from the due date, the petitioner in his representation filed pursuant to the order passed in the earlier writ proceedings, referred to Notification No.34(17) dated 17.01.2018, whereby the various Doctors had been given their promotion with effect from the due date (retrospectively). He points out that in the order dated 21.06.2019 of the Principal Secretary, Health Department, there is no consideration of the said Notification dated 17.01.2018. On the contrary, a blank statement has been made that no Doctor has been given promotion with retrospective effect.

4. The learned Counsel for the State submits that on that score, he is not in a position to defend the order. He, however, submits that the various transfers, including the transfer of the



petitioner, is on grounds of administrative exigencies and that this Court should refrain from passing any order as the same would amount to interfering with the administration of the Medical Services throughout the State.

5. Having considered the rival submissions, this Court would only observe that once the claim for retrospective promotion granted to the petitioner was raised, relying upon the Notification dated 17.01.2018, as a precedent, the Principal Secretary was required to consider the same. What would have been the final outcome is not for this Court to presume at this stage. Since the same has not been considered in the order of the Principal Secretary, this Court would quash the order dated 21.06.2019.

6. The counsel for the petitioner submits that the petitioner would be representing before the Principal Secretary along with the copy of the Notification dated 17.01.2018 and making out his claim for seniority/promotion with effect from the due date (retrospectively). The Court would observe that the petitioner may do so. The petitioner will be at liberty to place on record any other documents which may inure to his benefit. It is submitted that on account of non-consideration, the petitioner has been suffering from quite some time as due promotion has not



been given to him. Therefore, this Court would observe that if the petitioner represents within two weeks, the Principal Secretary would be obliged to consider the claim of the petitioner expeditiously, without any undue delay and preferably within a period of eight weeks thereafter, in accordance with law. If such decision results in grant of benefit with retrospective effect, the same shall also be made available to the petitioner.

7. The writ application stands disposed of.

(Madhuresh Prasad, J)

PNM

AFR/NAFR	
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