

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.21 of 2020

In

Civil Writ Jurisdiction Case No.12178 of 2017

Dr. Raj Kishor Rai, son of Late Brij Narayan Rai, Resident of Village-Manjharia, P.s.- Seorahi, P.O.- Gaurijagdish, District- Kushinagar (Uttar Pradesh), Pin- 2744006.

... .. Appellant/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, Health Department, Government of Bihar, Patna.
4. The Joint Secretary, Health Department, Government of Bihar, Patna.
5. The Bihar Public Service Commission through its Secretary, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.
6. The Chairman, Bihar Public Service Commission, 15 Jawaharlal Nehru Marg, Bailey Road, Patna.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kumar Kaushik, Advocate
For the State	:	Mrs. Shama Sinha, AC to AAG IX
For the BPSC	:	Mr. Ashok Kumar Choudhary, Sr. Advocate
		Mr. Akshansh Ankit, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 18-08-2022

Heard learned counsel for the respective parties.

The appellant has assailed the order of learned Single Judge dated 16.12.2019 passed in CWJC No.12178 of 2017.

Appellant was a candidate for recruitment to the post of General Medical Officer pursuant to the Advertisement No. 15/2014 dated 12.07.2014. Initially, Selecting authority stipulated



last date for submission of application as 20.08.2014 and, thereafter, it was extended from 20.08.2014 to 05.09.2014. The appellant was made ineligible with reference to his merit.

It is submitted that he was appointed as General Medical Officer on contract basis w.e.f. 07.09.2010. One of the criteria for selection and appointment to the post of General Medical Officer on permanent basis is award of 25 marks towards work experience on contract basis. The appellant has been awarded 15 marks. Learned counsel for the appellant submitted that for award of 20 marks there is a shortage of one day. If appellant is awarded five more marks under work experience criteria, i.e., 20 marks instead of 15 marks he would be eligible and within the zone of consideration for selection and appointment to the post General Medical Officer. On this issue, the appellant presented CWJC No. 12178 of 2017 which was rejected by learned Single Judge, thus, the appellant presented the present appeal.

Learned counsel for the appellant after arguing for some time seeks permission to withdraw this appeal to approach the State Government for consideration of appellant's name for selection and appointment to the post of General Medical Officer with reference to Rule 27 and power of removal of defect under the Bihar Health Services (Appointment and Service Conditions)



Rules, 2013 *vide* Notification dated 12.11.2013. It is also submitted that order of the learned Single Judge would be a hurdle and it may be observed that order of the learned Single Judge would not come in the way of the appellant’s grievance by the state.

In the light of the aforesaid submission, the order of learned Single Judge order would not come in the way of deciding the appellant’s grievance by the State Government with reference to Rule 27 of the Rules, 2013. In this regard, appellant is hereby directed to approach the selecting and appointing authority within a period of four weeks from today, thereafter, the concerned authority is hereby directed to examine the grievance of the appellant .

Accordingly, the appellant is permitted to withdraw this appeal as such it is dismissed as withdrawn in terms of the aforesaid observation.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

Vikash/-

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

