

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1183 of 2021

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Ahmad Faraz Son of Late Md. Gayasuddin Khan, Resident of House No. B/14, Road No. 3, Indrapuri Colony, Raza Bazar, Post - B.V. College, P.S.- Shashtrinagar, District - Patna, (Bihar), PIN - 800014. At present House No. 180/1, 3rd Floor, Street No. 7, Zakir Nagar, New Freinda Colony, Okhla, P.S. Okhla, New Delhi, PIN - 110025.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administration, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Special Secretary, Health Department, Govt. of Bihar, Patna.
4. The Bihar Technical Service Commission, Patna through its Chairman.
5. The Chairman, The Bihar Technical Service Commission, Patna.
6. The Secretary, Bihar Technical Service Commission, Patna.
7. The Deputy Secretary, Bihar Technical Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ravi Kumar, Advocate
For the Respondent/s : Mr. Binod Kumar Yadav, SC 18

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

Date : 17-01-2022

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

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

“(i) Issuance of a writ of mandamus commanding the concerned respondent authorities under the Health Department of the State Government as well as Bihar Technical Service Commission, Patna (hereinafter referred to as “the Commission”) to take steps towards extending the benefits of relaxation in the upper age limit and prescribed for consideration of cases of



candidates for appointment against the post of Occupational Therapist and Physiotherapist pursuant to advertisement nos. 01/2020 and 02/2020 dated 12/03/2020 issued by the Commission in accordance with the decision of the State Government as contained under a letter dated 23/01/2006 bearing letter no. 212, issued by the concerned authorities under the then Personnel and Administration Reforms Department of the State Government.

(ii) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the Commission to refrain from acting in furtherance of advertisement nos. 01/2020 and 02/2020, till the time appropriate provisions are made under the said advertisements for extending the benefits of relaxation in the matter of maximum age prescribed for appointment against the posts of Occupational therapists and Physiotherapists under the General Service Sub Cadre of the Health Department of the State Government in compliance of the decision of the Government as contained under the aforesaid letter dated 23/01/2006 bearing letter no. 212 issued by the concerned authorities under the erstwhile Personnel and Administration Reforms Department of the State Government (now renamed as “the General Administration Department”).

(iii) Issuance of a declaration holding that the petitioner and other similarly situated persons who despite having crossed the maximum age limit prescribed under the aforesaid advertisement nos. 01/2020 and 02/2020,



are entitled for being extended the benefits of age relaxation, as well as awarding marks for experience, in view of the fact that the last advertisement for considering cases of candidates for appointment against the posts of Occupational Therapists and Physiotherapists was published on 08/04/1995 and ever since then no steps have been taken by the concerned authorities towards making appointment against the said posts.

(iv) Issuance of an ad interim direction upon the concerned authorities under the Commission to refrain from acting in furtherance of the advertisement nos. 01/2020 and 02/2020 and or in the alternative allow the present petitioner to provisionally submit their application forms pursuant to the said advertisement for consideration of their cases for appointment against the posts of Occupational Therapists and Physiotherapists subject to the outcome of the present writ application.

(v) Any other relief/reliefs that the petitioner may be found to be entitled to in the facts and circumstances of the present case.”

In the absence of representation, issuance of direction to the concerned respondent is not warranted in the light of the Hon'ble Apex Court decision in the case of **Mani Subrat Jain vs. State of Haryana** reported in **(1977) 1 SCC 486**. Thus, the petitioner has not made out a case. The present order would not come in the way of filing of a detailed representation before the competent authority for the purpose of age relaxation to the post of



Occupational Therapist and Physiotherapist pursuant to the advertisement Nos. 01/2020 and 02/2020 dated 12.03.2020. If such representation is submitted the concerned respondent is hereby directed to examine as to whether the petitioner is entitled to age relaxation or not? In this regard, on receipt of petitioner’s representation, the concerned respondent is hereby directed to pass a suitable order and communicate the same to the petitioner within a period of one month from the date of receipt of this order.

With the aforesaid observations, the writ petition stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

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

