

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.306 of 2021

1. Dr. Devanand Prasad Singh, son of Late Ramashis Singh resident of C-108, Kashyap Green City, Abhimanue Nagar, P.S. - Rupaspur, Patna- 801105.
2. Dr. Gautam Prasad S/o Late Krishna Chandra lal resident of Sri Krishna Medical Hall, Shahganj, East of Musallahpur Hat, P.S. - Sultanganj, Patna- 800006.
3. Dr. (Smt.) Kiran Verma D/o Late Prof. Umakant Verma resident of Flat No. 301, Mundeshwari Taluka Apartment, Main Road, Budha Colony, P.S. - Budha Colony, Patna- 800001.
4. Dr. Pradeep Kumar Jaiswal S/o - Late Kamal Prasad Choudhary resident of 110B, Rajnigandha Apartment, Sadakat Ashram, Kurji, P.S. Patliputra, Patna - 800010.
5. Dr. Shailendra Kumar Pathak S/o- Late Tirthnath Pathak resident of Adarsh Nagar, Ward No. 26, P.S. - Sitamarhi, District- Sitamarhi, Pin- 843302.
6. Dr. Krishna Mohan Chaubey S/o - Late Kedar nath Chaubey resident of Savitri Shree, Near Jagdamba Colony, P.O. - Maudharpur Kachhnara, P.S. - Ram Krishna Nagar, District- Patna.
7. Dr. Sidheshwar Upadhyat S/o - Late kashinath Upadhyay resident of Jagdev nagar, Gali No. -5, P.O. - Anaith, P.S. - Nawada Arrah, District- Bhojpur, Arrah, Pin- 802302.
8. Dr. Nand Lal S/o - Late R.N. Bhakta resident of Salempur, Near Shilpi Pokhara, P.S. - Town Thana chapra, District- Saran (Chapra), Pin - 841301.
9. Dr. Jai Shankar Prasad S/o- Late Ganga Parasad resident of village and P.O. - Dighikala east, Hajipur, District- Vaishali.
10. Dr. Bharat Upadhyay S/o- Late Anandbua Upadhyay resident of Tadbuwa road, 57B, P.S. - Tulsi Sagar, District- Ghazipur (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, New Secretariat building, Government of Bihar, Patna.
2. The Director-in-Chief, Health Services, New Secretariat bUilding, Government of Bihar, Patna.
3. The Special Secretary, Health Department, New Secretariat Building, Government of Bihar, Patna.
4. The Accountant General (A and E), Birchand Patel Path, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhay Kumar Singh, Advocate
For the Respondent/s : Mr. Rajeshwar Singh, GA 10

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI



ORAL JUDGMENT

Date : 12-01-2022

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

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

“For issuance of appropriate writs/orders/direction in the nature of writ of Mandamus directing the respondents to grant financial benefits of Dynamic ACP to the retired petitioners who are doctors/Teaching Staff of Bihar Aayush (Ayurvedic, Unani and Homeopathic) Cadre w.e.f. 01-01-2006 like Bihar Health Services Cadre and Bihar Medical Teaching Services Cadre, whereas by Health Department Resolution Memo No. 16/H1-08/2016-1351 (Aa-chi) Patna dated 03-10-2019 (Annexure-3) issued under the signature of Special Secretary, Health Department Respondent no. 3 notional benefit of Dynamic A.C.P. has been given from 01-01-2006 and actual benefit from February 2014 without issuing any notification referring to the names of concerned doctors in spite of approval by the Cabinet. Whereas in the earlier Health Department notification memo no. 16/A-1-04/2012-968 (Aa-chi) Patna, Dated 22-07-2019 (Annexure-2) the actual date of financial benefit of First, Second, third and fourth dynamic A.C.P. with names of Ayurvedic Medical Officers of the Cadre has been detailed including the names of petitioners with pay scale in which notional benefit of Dynamic A.C.P. has been given from 21-12-2010 and financial benefit from 01-04-2017, which has been modified by the



Government Resolution dated 03-10-2019 (Annexure-3) but the notification with names of Ayurvedic doctors has not been issued in spite of the fact that the petitioners have already retired from service and they are being deprived from this financial benefits and accordingly fixation of monthly pension amount, Gratuity, Leave encashment amount is being delayed.”

Short question for consideration in the present petition is whether the petitioners are entitled to benefit of dynamic ACP or not?

In this regard, learned counsel for the petitioners relied on Resolution dated 03.10.2019 (Annexure-3) and representation dated 28.08.2020 and 18.09.2020 (Annexure-4 and 5) respectively.

The concerned respondent is hereby directed to take a decision on the petitioner's representation read with the Resolution dated 03.10.2019 with reference to service particulars of each of the petitioners. If the petitioners are otherwise eligible, the benefit of dynamic ACP shall be extended to each of the petitioners within a period of four months from the date of receipt of this order. If the petitioners are not entitled to the aforesaid reliefs necessary speaking order shall be passed as to why the petitioners are not entitled to benefit of dynamic ACP with reference to Resolution dated 03.10.2019.



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

