

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15700 of 2018**

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Dinanath Sharma, Son of Sakaldeo Sharma, Resident of Village-Kundila, Post Office- Ratni Bazar, Police Station- Shakurabad, District- Jehanabad, Presently Posted as Basic Health Worker -cum-Sanitary Inspector, Primary Health centre, Maharajganj, Siwan.

... .. Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary, Department of Health, Bihar, Patna.
3. The Director -in-Chief, Health Services, Bihar, Patna.
4. The Civil Surgeon-cum-Chief Medical officer, Siwan.
5. The In-Charge Medical Officer, Primary Health Centre, Maharajganj, Siwan.

... .. Respondents

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**Appearance :**

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| For the Petitioner | : | Mr. Anil Kumar Sinha, Adv.           |
| For the State      | : | Mr. Braj Bhushan Mishra, AC to AAG-9 |

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**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 15-12-2022**

Heard learned counsel for the petitioner and the learned counsel for the State.

2. It is the petitioner's case that he was a basic health worker. In view of existence of a vacant post of Sanitary Inspector at the primary health centre, Maharajganj. The civil Surgeon-cum-Chief Medical Officer, Siwan, posted the petitioner as Sanitary



Inspector against the said vacant post. This fact is evident from the order of the Civil Surgeon dated 17.09.1990. The said posting was by way of a promotion for which the District Authorities have sought confirmation from the Health Department. The approval has not been accorded and accordingly, the petitioner has not been extended the benefits of promotion as Sanitary Inspector. However, it is apparent from bare perusal of the various orders issued by the In-charge Medical Officer, Primary Health Centre, Maharajganj, as well as the Civil Surgeon-cum-Chief Medical Officer, Siwan (Annexure-4 & Annexure-5) that they continued to take work from the petitioner on the post of Sanitary Inspector. When the petitioner retired, he sought benefits of the post of Sanitary Inspector which was not being granted to him. He has thereafter, approached this Court by filing a writ petition. This Court in ***C.W.J.C. No. 8352 of 2017***, allowed the petitioner to file a representation for the said benefits which has been rejected by the impugned order dated 25.06.2018, as contained in Annexure-9 to the writ petition.

3. Learned counsel for the petitioner submits that the petitioner's grievance has not been considered by the Authorities with reference to others with whom he is claiming parity namely one Md. Sahid Pravej and Sri Barunendra Kumar Singh who were



also basic health workers, but by virtue of their posting as Sanitary Inspector have been allowed the benefits attached to the post of Sanitary Inspector. The same has been rejected without considering the petitioner's claim based on parity as also the fact that his posting was against vacant post and that admittedly, the Authorities have continued to take work from the petitioner on the said post till his retirement.

4. Learned counsel for the State, however, submits that since the Department has specifically refused the claim for the reason that petitioner's claimed promotion was from a technical cadre to a non-technical cadre. He was already holding a Class-III post, and therefore, also there was no question of promotion.

5. Petitioner's claim is clearly untenable. In the counter affidavit, they have tried to sustain the rejection of petitioner's claim (Annexure -9 dated 25.06.2018) by some additional grounds also which this Court would refuse to entertain. The impugned order contains only two reasons, and has to be considered based on the reasons recorded in the order dated 25.06.2018.

6. Learned counsel for the State has also filed a counter affidavit to the supplementary affidavit filed by the petitioner claiming parity with the said two workers. In the supplementary counter affidavit filed on behalf of the Respondent No. 3, there is



specific admission of the fact that the two persons, namely Md. Sahid Parvej and Sri Barunendra Kumar singh were similarly situated as the petitioner and have been allowed benefits including salary and other pecuniary benefits for the post of Sanitary Inspector.

7. Since the petitioner's controlling authority, namely Civil Surgeon-cum-Medical Officer had taken work of the post of Sanitary Inspector after posting him as such by an order, petitioner had no option, not to perform the duties. From the order, it is apparent that petitioner possessed the requisite training also.

8. The admitted position is that the petitioner was posted under orders of his controlling Authority and that they have continued to take work from the petitioner for the post of Sanitary Inspector till his retirement. Others similarly situated as the petitioner who were basic health workers , but continued to discharge duties as Sanitary Inspector were duly rewarded for this work by way of benefits attached to the post. Respondents thus cannot be permitted to discriminate between the petitioner's claim and that of the above noted two persons. This Court would thus find that petitioners are entitled to claim parity with Md. Sahid Pravej and Sri Barunendra Kumar Singh, and consequential benefits accordingly.



9. The impugned order is hereby quashed . Writ petition is allowed.

(Madhuresh Prasad, J)

Raj kishore/-

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