

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1503 of 2021

Vinod Kumar Rai Son of Shri Surendra Rai, resident of Village - Chotaka Manjha, P.S. Mairwa, District - Siwan. At present posted and working as Ayush Medical Officer, Rashtriya Bal Swasthaya Karyakaram at Primary Health Centre/Referral Hospital, Mairwa, Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary-cum-the Principal Secretary, Health and Family Department, Govt. of Bihar, Patna.
3. The Principal Secretary, General Administration Department, Bihar, Patna.
4. The Director in Chief, Health Department, Govt. of Bihar, Patna.
5. The Secretary, Bihar Technical Service Commission, 19 Harding Road, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Kumar Mishra, Advocate
For the Respondent/s	:	Mr. Rajeshwar Singh, GA 10
For the Commission	:	Mr. Nikesh Kumar, Advocate

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

Date : 13-05-2022

Heard learned counsel for the respective parties through
virtual court proceedings.

2. In the instant petition, petitioner has prayed for the
following relief/reliefs:

“i) For issuance of an appropriate writ in
the nature of certiorari for quashing the clause 3(V) of
the advertisement No. 4/2020 to 09/2020 dated
28.09.2020 issued for appointment of regular Ayush
Medical Officer (Ayurvedic), (Unani) and
(Homeopathy) by Bihar Technical Service
Commission, whereby and whereunder, only 12 years



of relaxation has been given to the candidates, who have been working on contractual basis – without due regard to the fact that regular appointment is being made after gap of more than 20 years and in the meanwhile large number of candidates including the petitioner have crossed the maximum age limit prescribed for the post.

ii) For issuance of in the nature of mandamus commanding and directed the respondent authorities concerned to give at least 16 years of age relaxation to the petitioner, who has been working on contract as AYUSH Doctor (Rashtriya Bal Swasthaya Karyakaram) – as it has been done in the case of appointment of Specialist Medical Officers & General Medical Officers vide Advertisement No. 03/2019 to 16/2019 dated 28.08.2019 issued by the Bihar Technical Service Commission of Dentist Doctors vide Advertisement No. 05/2015 issued by the Bihar Public Service Commission or Allopathic Doctors as General Medicine Officers vide Advertisement No. 15/2014 issued by the Bihar Public Service Commission and Veterinary Doctors vide Advertisement No. 04/2015 issued by the Bihar Public Service Commission.

iii) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to accept the form of the petitioner for the post of Ayurvedic Medical Officer under Advertisement No. 04/2020 to 9/2020 issued by the Secretary, Bihar Technical Service Commission, Bihar Patna by providing at least the age relaxation of one day, as the petitioner's date of birth is 01.08.1971 and the cutoff date for calculation of age relaxation has been fixed as 01.08.2020 and the petitioner is in General category and after availing the age relaxation of 12 years for



contract employee as provided in column 3(V) of the advertisement no. 04/2020 to 9/2020, the petitioner's age is 49 years and 01 day, whereas, as per the advertisement, the maximum age limit for submission of application has been fixed as 49 years and due to which, the online application submitted by the petitioner has been rejected with the remark "You are not eligible for this post due age validation [attained age should be more than or equal to 21 and upto the maximum age 49], including age relaxation benefits (if applicable), You are overage for this post."

iv) For issuance of an appropriate writ in the nature of mandamus for commanding and directing the respondent authorities concerned to consider the case of the petitioner sympathetically by allowing the age relaxation of only 01 day so that the petitioner might be under Advertisement No. 04/2020, as the petitioner is working as Ayush Medical Officer, Primary Health Center/ Referral Hospital, Mairwa, Siwan since 22.06.2015 on contract basis and after publication of advertisement, he was under hope and impression that he will be selected against the permanent post of Ayurvedic Medical Officer but due to 01 day overage, his application has been rejected as per the knowledge and information to the petitioner online.

v) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities concerned to allow the petitioner to participate in the ongoing selection process initiated vide Advertisement No. 04/2020 to 09/2020 dated 28.09.2020 issued for appointment of Regular Ayush Medical Officer (Ayurvedic), (Unani) and (Homeopathy) by Bihar Technical Service Commission.



vi) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner will be found entitled in the facts and circumstances of the case.”

3. Learned counsel for the respondent – Commission fairly submitted that the present matter is identical to that of C.W.J.C. No. 8888 of 2020 decided on 09.03.2021. It is further submitted that the present petition may be disposed off in terms of the aforesaid order.

4. Accordingly, present petition stands disposed off in terms of order passed in C.W.J.C No. 8888 of 2020. Whatever direction given in the aforesaid order is applicable to the petitioners.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	17.05.2022
Transmission Date	

