

IN THE HIGH COURT OF JUDICATURE AT PATNA

Miscellaneous Jurisdiction Case No.1421 of 2022

In

Civil Writ Jurisdiction Case No.15446 of 2019

-
-
1. Shambhu Nath Azad son of Sri Damodar Prasad Yadav, Resident of Village GanjBajitpur, Post-Milkichak, P.S.-Bahadurpur, District-Darbangha, at present working as Ophthalmic Assistant in the office of Director Rajendra Nagar Super Speciality Eye Centre Patna P.S. Kadam Kuan, Dist.-Patna.
 2. Surendra Prasad Yadav, son of Ramasis Prasad Yadav, resident of Village Maqsoodpur Bahlempur, P.O. and P.S.-Shahjahanpur, District-Patna at present working as Ophthalmic Assistant in the office of Director Rajendra Nagar Super Speciality Eye Centre Patna P.S. Kadam Kuan, Dist.-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Main Secretariat, Patna.
2. The Principal Secretary General Administration Department, Government of Bihar, Main Secretariat, Patna.
3. The Principal Secretary Department of Health, Government of Bihar, New Secretariat, Patna.
4. The Special Secretary Department of Health, Government of Bihar, New Secretariat, Patna.
5. The Director-in-Chief (Disease Control Public Health Para Medical), Health Services, Bihar, Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Alok Ranjan, AC to AAG-5

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 31-08-2022

Heard learned counsel for the parties.

Petitioners have prayed for the following

relief(s):-

“1. For recalling the order dated 12.07.2022 passed in CWJC No. 15446 of 2019 and also for the restoration of CWJC No. 15446 of 2019 which was dismissed for default due to non-prosecution.”

For the reasons mentioned in the application, the same is allowed.

C.W.J.C. No. 15446 of 2019 is restored to its original file and number and is taken up for hearing.

C.W.J.C. No. 15446 of 2019

Heard learned counsel for the parties.

Petitioners have prayed for the following relief(s):-

- i. For issuance of an appropriate writ in the nature of Certiorari quashing the notification dated 6.3.2019 issued under the signature of Special Secretary to the Government by the order of the

Governor of Bihar known as Bihar Ophthalmic Assistant Cadre (Recruitment and Service Conditions) (Amendment) Rules 2019 (hereinafter refer to as amendment Rules 2019) by which the teaching cadre of the employees and officers of Bihar Ophthalmic Assistant Cadre has been snatched.

- ii. For declaration that the amended rule is ultra virus and in the teeth of article 14 and 16 of the Constitution of India, so far as substitution of clause A and B of Sub Rule 1 and Sub Rule 2 of Rule 3 of Bihar ophthalmic assistant carder (Recruitment and Service Conditions) Rules, 2011.
- iii. For declaration that the amendment shall snatch the promotional avenue of the employees working in the cadre of Bihar ophthalmic assistant carder in both the side i.e. teaching and departmental promotion.

Learned counsel for the petitioners prays for passing of similar order which has been passed in C.W.J.C. No. 9780 of 2014 titled as Mushtari Begum & Ors Vs. The State of Bihar & Ors.

Ordered accordingly.

Prayer of the petitioner is that the writ application may be disposed of with a direction to the respondents to consider the representation of the petitioner and dispose it of in accordance with law within a fixed time in the light of the provisions of Bihar Ophthalmic Assistant Joint Cadre (Recruitment and Service Condition) Rule 2011 as notified in the Official Gazette on 07.06.2011.

This writ application is accordingly disposed of with a direction to the respondent no. 5, namely, **Director-in-Chief, (Disease Control, Public Health Para Medical), Health Services, Bihar, Patna** to consider the representations of the petitioners in the light of the provisions of the said Rules and dispose it of within one

month from the date of receipt/production of a copy of this order with necessary consequential orders.”

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/veena-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	