

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21712 of 2011

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Raja Ram Prasad Singh Son Of Sri Harischandra Prasad Resident Of Village
Jaiparsa, P.S. Jethian, District Gaya

... .. Petitioner

Versus

1. The State Of Bihar
2. The Director, Tuberculosis Demonstration And Training Centre, Agamkuan,
Patna
3. The District Health Society T.B. Control , Bhim Rao Ambedkar Market
Complex, Gaya Through Its Chairman
4. The District Magistrate-Cum-Chairman, District Health Society, T. B.
Control, Gaya
5. The Deputy Development Commissioner-Cum-Vice Chairman, District
Health Society, T. B. Control, Gaya
6. The Program Manager, District Health Society, Gaya
7. The District Tuberculosis Officer, Gaya
8. The Civil Surgeon-Cum-Secretary, District Health Society, Gaya
9. The Assistant Project Officer, District Rural Development Authority, Gaya
10. The District Land Acquisition Officer-Cum-Establishment Deputy Collector,
Gaya
11. The Additional Collector, Gaya
12. The In-Charge Medical Officer, Tuberculosis Unit, Primary Health Centre,
Wazirganj, District Gaya

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Jitendra Kumar, Advocate
For the Respondent/s : Ms.Puspanjali Sharma, AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-02-2023 Heard learned counsel for the petitioner and the State.

Petitioner in the present case is seeking the following

reliefs:-

“i) To Quash the order contained in
Memo No. 939 dated 22.05.2007 (Annexure-13)
issued by the Respondent no. 8 Civil Surgeon-
cum-Secretary, District Health Society, Gaya



canceling the selection of petitioner's appointment to the post of Senior technician Laboratory Supervisor under revised national tuberculosis program.

ii) To command and direct the respondents to consider the case of the petitioner for benefit of extension of contract period on the basis of satisfactory work as persons appointed on different post in terms of same advertisement have been granted and not to discriminate the case of the petitioner.

iii) To grant any other relief or reliefs to which the petitioner is otherwise entitled for.”

Learned counsel for the petitioner submits that pursuant to the advertisement dated 16.02.2006 (Annexure ‘1’) , the petitioner had submitted his application for the post of Senior Technician Laboratory Supervisor (in short “S.T.L.S.”) and after proper follow up of the procedures he was selected. It is stated that final selection list was also published by the Program Manager, District Health Society, Gaya (respondent no. 6) and accordingly the District Tuberculosis Officer, Gaya (respondent no. 7) issued appointment letter directing the petitioner to join the training session of 10 days.

Learned counsel further submits that the petitioner joined the training session and thereafter he was posted at Primary Health Centre, Wazirganj, Gaya vide Memo No. 66



dated 26.07.2006 (Annexure '7').

Learned counsel for the petitioner submits that in the merit list, the petitioner was placed at serial no. 2 in the general category. It is further stated that later on an Inquiry Committee consisting of respondent nos. 9 to 11 was constituted to make an inquiry and submit a report in the matter of appointment. Annexure '10' to the writ application which is in the nature of a show cause issued to the petitioner was served calling upon him to show cause as to why his appointment be not cancelled. It is submitted that the petitioner submitted his reply dated 16.03.2007 (Annexure '12') but the Civil Surgeon-cum-Secretary, District Health Society, Gaya vide his letter No. 939 dated 22.05.2007 (Annexure '13') cancelled the selection of the petitioner.

Learned counsel for the petitioner submits that on bare perusal of Annexure '13' to the writ application, it would appear that the reply of show cause submitted on behalf of the petitioner (Annexure '12') has not at all been considered.

It is his further submission that from the counter affidavit filed on behalf of the State, it would appear that the Inquiry Officer had submitted a report that the total necessity for the post of S.T.L.S. was four and out of four vacancies, two



was for general and two posts were for backward class and there was no post for Scheduled Caste as per roster point but in the advertisement dated 16.02.2006, five posts for the S.T.L.S. was advertised out of which three posts were for general and one post for backward class and one post for Scheduled Caste were reserved. This being the position, learned counsel for the petitioner submits that the petitioner who had been placed at serial no. 2 only in the merit list of the general category should have been allowed to continue against the vacancies available.

Learned counsel for the State has opposed this writ application. It is submitted that the advertisement was wrongly published showing five vacancies and appointments were also made against those vacancies.

Having heard learned counsel for the petitioner and the State as also on perusal of the records particularly the order cancelling the selection of the petitioner, this Court finds that even as the fact that a reply to the show cause has been submitted on behalf of the petitioner has been mentioned in the order but the submissions of the petitioner have not at all been considered. It appears that the show cause was issued by way of an empty formality which is not permissible.

This Court is, therefore, of the considered opinion



that so far as the order as contained in letter no. 939 dated 22nd May, 2007 (Annexure '13') is concerned, the same cannot sustain the test of law. The impugned order thus suffers from non-consideration of the reply to show cause submitted on behalf of the petitioner. It is, therefore, set aside.

The Civil Surgeon-cum-Secretary, District Health Society, Gaya is directed to consider the reply of the petitioner with reference to the materials available on the record and pass a reasoned order dealing with each and every submission of the petitioner. Let such reasoned order be passed within a period of three months from the date of receipt/ communication of a copy of this order.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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