

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1799 of 2018

Dr Rajendra Tanti Son of Tulsi Tanti at present posted as Homeopathic Medical officer, District Joint Dispensary, P.O., P.S. and District- Nawada.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna
2. The Director, Desi Chikitsa, Health Department, Govt. of Bihar, Patna.
3. The Assistant Secretary cum In-Charge Officer, (Personnel Grievance Redressal Forum), Finance Department, Government of Bihar, Patna
4. The Deputy Director, Desi Chikitsa, Health Department, Government of Bihar, Patna.
5. The District Accounts Officer, Nawada.
6. The District Desi Chikitsa Officer, Nawada.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Ajay Kumar Pandey, Advocate
For the Respondent/s : Mr A B Sinha, GA VIII

CORAM: HONOURABLE MR JUSTICE RAJIV ROY

ORAL ORDER

5 15-09-2023

Heard the parties.

2 The prayer is for the following reliefs:

“That this application by petitioner a citizen of India for issuance of Writ of Mandamus or any other writ/order/direction commanding respondent authorities to make payment of salary to the petitioner after its re-fixation in pay scale of 6500 – 10500, Grade Pay – 5400 with effect from his date of joining and its revised pay scale, after setting aside of joining and its revised pay scale, after setting aside the fixation of salary in Service Book on 22.05.2017 as well as quashing the letter issued by Respondent No 6 vide Memo No



285/Nawada dated 19.07.2017 whereby petitioner has been directed to deposit Rs 1,72,255/- as excess payment and for grant of any other suitable relief/reliefs for which petitioner is found entitled in facts and circumstance of the case.”

3 The case of the petitioner is that pursuant to the advertisement issued by the Bihar Public Service Commission, he was declared qualified and got posting as a Homeopathic Doctor on 02.07.1999. Further, the Resolution dated 08.02.1999 (Annexure 1 to the petition) would show that under Column 34 for Homeopathic Doctor (Diploma), the basic scale envisaged was Rs 6,500 – 10,500/-.

4 The further submission is that the petitioner's batch is 1982 – 86 and, as such, Memo No 31 dated 15.01.2010 issued by the Joint Secretary, Health Department, Patna wherein it was incorporated that in view of the Central Homeopathic Regulation being implemented with effect from 1983, those having DHMS (Diploma Course) till then even if the result has not been published will be granted recognition equivalent to BHMS. It is his submission that he has, accordingly, been granted the pay scale but vide Memo No 285 dated 19.07.2017, the date was shifted from 1999 to 2010, effective from 15.01.2010 (Annexure 3 to the petition). He submits that before issuance of Memo No 285 dated 19.07.2017, the petitioner was



not put on notice.

5 It is his further submission that the petitioner immediately represented before the respondents which was duly received in the office on 24.07.2017 but no decision has been taken and/or communicated to the petitioner.

6 Learned counsel for the State, though took this Court to the counter affidavit filed on behalf of respondent-Health Department, justified the decision stating that in view of the issuance of letter dated 15.01.2010, it has to be the cut off date. The said pay scale was with effect from 2010 and not with effect from 1999.

7 Learned counsel for the petitioner submits that the petitioner was getting the pay scale since 1999, there was no misrepresentation on his part, it was in pursuance of the gazette notification dated 08.02.1999 and in that background, the least, that was expected from the respondents, was to put the petitioner on notice before making an order for realization of the amount.

8 Earlier, on 09.03.2018, the coordinate Bench, while directing the State to file counter affidavit, had stayed the recovery so far as the petitioner is concerned.

9 In the aforementioned circumstance, it would be



appropriate that the respondents take a decision on the representation dated 24.07.2017, preferred by the petitioner (Annexure 15 to the petition).

10 Learned counsel for the petitioner submits that, in addition, he will be filing a fresh representation within four weeks along with this order.

11 If such representation is preferred along with this order, the same shall be considered and a reasoned order shall be passed within a period of four months from the date of filing the representation.

12 Till the order is passed by the respondents, the order in question, so far as the petitioner is concerned, shall be put in abeyance.

13 The writ petition stands disposed of with the aforesaid direction.

(Rajiv Roy, J)

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