

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21092 of 2019

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Prem Kumar Sharma Son of Rajdeo Singh Resident of Ward No.23,
Sitamarhi, Hospital Road, Bahadurpur, P.S. and District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Health, Government of Bihar.
2. The Principal Secretary, Department of Health, Government of Bihar, Patna.
3. The Director-in-Chief, Health Services, Department of Health, Government of Bihar, Patna.
4. The District Magistrate, Sitamarhi.
5. The Chief Medical Officer-cum-Civil Surgeon, Sitamarhi.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Mishra, Adv.
For the State	:	Mr. S.D. Yadav, AAG-9, Mr. Anil Kumar Verma, AC to AAG-9
For Accountant General	:	Mr. Ram Kinker Choubey, Adv.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

6 04-07-2023 Heard Mr. Pramod Mishra, learned counsel

appearing on behalf of the petitioner, Mr. S.D. Yadav and Mr.

Anil Kumar Verma, learned counsel appearing on behalf of the

State and Mr. Ram Kinker Choubey, learned counsel appearing

on behalf of the Accountant General.

2. Learned counsel appearing on behalf of the

petitioner informs this Court that the petitioner has filed his

representation pursuant to the order dated 05.11.2004, passed in

C.W.J.C. No. 4739 of 1999.

3. The grievance of the petitioner is that 63 persons



were regularized without Advertisement who are named in the panel prepared in the year 1987. Petitioner also finds his name in the said panel which was prepared in the year 1987. The respondents have been continuing taking his services even before 1987.

4. Learned counsel further submits that in spite of the said fact the petitioner has not been taken into regular establishment like similarly situated employee and has been denied the benefit of old pension scheme, which came into effect from the year 2005. Learned counsel alleges that no transparency has been followed by the District Magistrate with respect to the persons who have been taken into permanent establishment, on the basis of the panel so prepared in the year 1987. He further submits that it is admitted by the respondents that the panel was prepared in the year 1987, but the same has not been purposely placed on record before taking decision with respect to appointment of the employees, whose names figured in 1987 panel.

5. Per contra, learned counsel appearing on behalf of the State informs that the petitioner is not entitled for the relief as has been claimed in the present writ petition, in light of the Ministry of Finance Notification dated 22.12.2003, which has



been adopted by the State Government w.e.f. 05.09.2005. It is further submitted that no panel was ever prepared and has also relied on the law laid down by the Apex Court that the life of the panel is only for one year.

6. Having considered the rival submission of the parties and the material placed on record as well as pleadings made in the writ petition and the counter affidavit, prima facie it appears that the petitioner had approached this Hon'ble Court by filing C.W.J.C. No. 4739 of 1999 and pursuant to the direction of this Court petitioner had represented before the District Magistrate, Sitamarhi. The District Magistrate, Sitamarhi although has admitted that the panel was prepared in the year 1987. The order dated 5.11.2004, passed in C.W.J.C. No. 4739 of 1999, the State has not denied the said fact. The petitioner was one of the writ petitioner has been left out without providing him the benefit given to the similarly situated employees, whose names figured in 1987 panel.

7. Considering the said admitted facts, this Court find it proper to direct the District Magistrate, Sitamarhi to reconsider the case of the petitioner afresh in light of the fact that other similarly situated employee has been appointed much prior to the date on which the petitioner has been appointed i.e.



on 28.11.2007 from the panel prepared in the year 1987.

8. The District Magistrate, Sitamarhi must confirm the fact as to whether any person, who was allowed to give his services after the petitioner, in the District Collectorate or any of the Muffasil of the District and he finds name in the panel, then in that case the petitioner be also granted benefit from the date, junior to the petitioner in the panel has been provided with the benefit of regular appointment at least from the said specific date.

9. The petitioner, if so desire, may file the detail representation before the District Magistrate, Sitamarhi.

10. The District Magistrate, Sitamarhi must pass a reasoned order in light of the observation made in this order without being prejudiced by any earlier order, within a period of six weeks from the date of filing of the representation and decide the case relating to the payment of pension and other retiral benefits payable to the petitioner.

11. Accordingly, the writ petition stands disposed of.

(Purnendu Singh, J)

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