

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2148 of 2020

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Jai Prakash Sharma, Son of Ram Lakhan Thakur Resident of Village-Begampur, P.O.- Chhatauna, P.S.- Maokothi, District- Begusarai, Presently posted as IVth Grade Employee of Primary Health Centre Bachiwara, District- Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health and Family Welfare Department, Government of Bihar, Patna.
2. The Director-in-Chief, Health Service, Government of Bihar.
3. The Deputy Director, Health Services-cum-State Programme Officer, Maleria-Kalazar, Bihar, Patna.
4. The Civil Surgeon cum Chief Medical Officer, Begusarai.
5. The District Maleria Officer, Begusarai.
6. The Additional Chief Medical Officer, Begusarai.
7. The Block Medical Officer, Sadar, Block, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Adv.
For the State	:	Mr. Ravi Kumar (AC to GP-13)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 24-11-2023 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed by the petitioner to quash the letter No. 730 dated 08.04.2019 (annexed as Annexure-8) issued by the Civil Surgeon-cum-Chief Medical Officer, Begusarai by which name of the petitioner has not been recommended by the District Level Promotion Committee on account of non-availability of vacancy as per the seniority and the petitioner has not been promoted on class-3 post.



3. It transpires to this Court that both counsel for the petitioner and counsel for the State are relying on the same notification No. 1060(4) dated 01.12.2014 annexed as Annexure-4 named as (Bihar Health Regional Clerk Cadre Rules, 2014). From clause 5 of the said rule, it transpires that the post as per the said rule, there is a categorical law laid down that the appointment on the post of Lower Divisional Clerk shall be made by way of direct recruitment on 85% of the post whereas, 15% of the Lower Divisional Clerk post shall be filled up by way of promotion from group-4 having qualification of intermediate/10+2 according to consideration of their seniority.

4. Learned counsel for the petitioner submits that on the date of issuance of the said letter No. 730 dated 08.04.2019, the petitioner was put in seniority at Serial No. 12 and on this ground that there are only 8 vacant post, he was denied.

5. Learned counsel for the petitioner further submits that in the light of the said rule, there are in total 15 vacancies which has to be filled up on promotional basis and the petitioner belongs to the backward class category candidate. Counsel also submits that during pendency of the writ petition, three more persons have been retired who was working as clerk on promotional basis whereas, the counsel for the State submits



that there are only 8 seats.

6. In this background, that situations of 2019 has already been changed in 2023. This Court set aside the letter No. 730 dated 08.04.2019 (annexed as Annexure-8) and directs the Civil Surgeon-cum-Chief Medical Officer, Begusarai to consider the case of the petitioner afresh for promotion and grant the promotion to him within 3 months after doing the needful to arrange the District Level Promotion Committee and in case he has not found fit for promotion, then the Civil Surgeon-cum-Chief Medical Officer, Begusarai shall pass a reasoned and speaking order within 90 days from the production of the order.

7. With the above observations and directions, this writ petition hereby stands disposed of.

(Dr. Anshuman, J.)

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