

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4828 of 2020

Priyadarshi Kumar Son of Vinay Kumar, Resident of Village- Uteshra, Ward No. 04, Police Station- Salakhua, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Health Department, Patna.
2. The Secretary, Health Cum Executive Director, State Health Society, Bihar, Parivar Kalyan Bhavan, Sheikhpura, Patna-800014
3. Principal , Jannayak Karuri Thakur Medical College and Hospital, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Uday Chand Prasad, Adv.
	:	Mr.Manoj Kumar, Adv.
	:	Mrs.Pooja Prasad, Adv.
For the State/s	:	Mr.Mujtabaul Haque (GP12)
	:	Mr. Pranoy Kumar, AC to GP12
For the Respondent No.2:	:	Mr. K.K. Sinha, Adv.
	:	Mr. Shashi Shekhar, Adv.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 04-07-2024 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed by the petitioner with the following reliefs which states as follows:-

(i) For issuance of writ in the nature of Mandamus direction to Respondents to include the name of petitioner in merit list prepared by Respondent No. 3 for selection on the post of Physiotherapist in Jannayak Karpuri Thakur Medical College and Hospital, Madhepura by giving him age relaxation in the light of Sankalp dated 18.07.2007 issued by the Secretary, Personnel and Administrative Department, Bihar, Patna. Reform

(ii) For issuance of writ in the nature of Mandamus direction to Respondent No. 3 to allow the petitioner for taking part in counselling for selection on the post of Physiotherapist in



Jannayak Karpuri Thakur Medical College and Hospital,
Madhepura.

(iii) For issuance of writ in the nature of Mandamus direction to Respondents to make selection of petitioner on the Physiotherapist in post of Jannayak Karpuri Thakur Medical College and Hospital, Madhepura by giving him age relaxation as petitioner's name is at Sr. 1 in the list and he possessed highest marks other than candidates.

(iv) For issuance of writ in the nature of Mandamus Respondents conducting post of to direction to restrain them for counselling for Physiotherapist Jannayak Karpuri the in Thakur Medical College and Hospital, Madhepura which was scheduled to be held on 22.02.2020.

3. Counsel for the petitioner submits that the petitioner have qualification of Matriculation in 1st division and Intermediate in 1st division from recognized institution. He submits that the petitioner has passed Bachelor of Physiotherapy in the year 2003 from University of Calcutta where he has also passed Master of Physiotherapy in 1st Division in the year 2009 from Chaudhary Charan Singh University, Merrut.

4. Counsel further submits that the petitioner has worked as Physiotherapist in Bihar Education Project Supaul



since 12 January, 2011 to 17 January, 2017. The petitioner has also worked as Physiotherapist in Sadar Hospital, Saharsa since 18.01.2017 to till date and his work was found satisfactory.

5. Counsel further submits that an Advertisement has published on 16.09.2019 and he has applied for the post of Physiotherapist on contract basis and as per the advertisement, one post was vacant for unreserved category and one post for EBC category. He submits that the age limit for unreserved category is 37 years and for EBC category is 40 years.

6. Counsel further submits that as per the merit list, the petitioner's name is at Serial No.1 and he has obtained total 74.272 marks after totalling education marks and experience marks which is highest among all candidates, but in remark column, it is stated that petitioner's date of birth is 01.10.1979 and post of BC is not sanctioned and as per unreserved category, the petitioner's age is more than maximum fixed age.

7. Counsel further submits that the petitioner has filed representation, but no order has been passed on his representation. He submits that as per his knowledge, one post is still vacant and his case may be taken into consideration.

8. Counsel for the State submits that a counter-affidavit has been filed and he submits that the petitioner



belongs to BC category whereas there is two post, one for unreserved category and another for EBC category. Since there is no post in BC category, therefore the candidature of the petitioner has been taken under unreserved category and upon consideration of age of the petitioner under unreserved category, his age become barred in appointment to the said post. He further submits that as per unreserved category, the age of candidate must be 37 years and the petitioner's age is 40 years. As such, the petitioner's appointment could not be made in the said post of Physiotherapist.

9. After hearing the parties, it transpires to this Court that the petitioner has no case particularly when there were only two posts, one for unreserved category and another for EBC category hence, the petitioner's age become barrier for the said appointment and his candidature has been entertained under the unreserved category.

10. With the aforesaid direction, the present writ application is hereby dismissed.

(Dr. Anshuman, J.)

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