

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5412 of 2012

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Munna Kumar Jha Son of Late Parmanand Jha, Resident of Village and P.O.-
Bahadurpur Dekauli, P.S.-Bahadurpur, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The Director-In-Chief, Health Services, Government of Bihar, Patna.
4. The Commissioner, Darbhanga Division, Darbhanga.
5. The Regional Deputy Director, Health Services, Darbhanga Division,
Darbhanga.
6. The Civil Surgeon-Cum-Chief Medical Officer, Darbhanga.
7. The Incharge Medical Officer, Additional Primary Health Centre, Araila,
Hanuman Nagar, District- Darbhanga.
8. Justice Uday Sinha One Man Enquiry Committee, 42, Harding Road, Patna
through its Chairman.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shanti Pratap, Advocate
For the Respondent/s	:	Mr. Kumar Alok, SC-7
		Mr. Satyeshwar Prasad, AC to SC-7

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 30-01-2024 Heard the learned counsel for the petitioner and

the learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for
quashing the judgment dated 27.08.2010 passed in Case No.
104 of 2010 by the Chairman of Justice Uday Sinha One Man
Enquiry Committee (Annexure-1).

3. Learned counsel for the petitioner submits that
the father of the petitioner was appointed against sanctioned

post issued under the signature of the respondent authority. In the year 1997, the father of the petitioner was issued a show cause notice vide Memo No. 223(23) dated 03.06.1997 issued by the respondent no. 3, directing him to explain as to why his appointment be not cancelled with effect from the date of his joining. The father of the petitioner submitted his show cause reply well within time. Thereafter, the respondent no. 6 vide his letter no. 341, dated 12.02.1998 has submitted his report stating therein that the appointment of the father of the petitioner was legal and valid. Again, in the year 2002, the father of the petitioner was served another show cause notice vide Memo No. 2099, dated 26.06.2002 issued under the signature of the respondent no. 6., in light of the letter No. 173, dated 29.01.2002 issued by respondent no. 4, by which the appointment of the petitioner was *prima facie* declared as illegal appointment. The respondent authority, without considering the points raised by the father of the petitioner in his show cause reply, issued an order vide Memo No. 3843 dated 27.11.2002 issued under the signature of the respondent no. 6, by which the service of the father of the petitioner was terminated with immediate effect on the ground of illegal and irregular appointment. The father of the petitioner approached

the Hon'ble Court by way of filing C.W.J.C. No. 3397 of 2003. The said writ petition was finally heard and disposed of vide order dated 08.09.2003 along with analogous cases and the order of the termination of the father of the petitioner was set aside and he was directed to be reinstated in service. Thereafter, the State of Bihar filed an LPA No. 246 of 2004 against the order dated 08.09.2003 passed by the learned single judge in C.W.J.C. No. 3397 of 2003. The said LPA No. 246 of 2004 was heard along with LPA No. 946 of 2003 and the same was disposed of by a common judgment and order dated 26.06.2006, directing the authorities of the Health Department, Government of Bihar to consider the case of all the aforesaid employees with a view to find out, on the basis of relevant facts and law as settled by the Constitution Bench in case of *Secretary, State of Karnataka Vs. Uma Devi*.

4. Pursuant to the direction of the LPA Court, a five member Enquiry Committee was constituted by the Health Department, Government of Bihar under the chairmanship of respondent no. 3 for examining the validity of the appointment of the aforesaid employees, including the father of the petitioner. The Enquiry Committee altogether conducted an *ex-parte* enquiry and submitted its report to the

State Government categorizing the appointment of father of the petitioner as illegal appointment on the ground that the appointment has not been made by the competent authority.

5. In the meantime, the father of the petitioner died on 18.03.2007 in harness, thereafter, the petitioner had applied for his appointment on compassionate ground and accordingly, the petitioner had been appointed on the compassionate ground pursuant to the order of District Compassionate Appointment Committee.

6. Learned counsel for the petitioner further submits that in the year 2002, he had received a show cause issued under the signature of the respondent no. 4, by which the petitioner was informed that the appointment of the father of the petitioner was *prima facie* declared illegal. The letter with the list of the names of the 11 persons working as Special Cholera Worker and in their appointment order added with a remark that “order issued registered records were not available in this office”, on the basis of the report of the Civil Surgeon, appointments of these 11 persons were held illegal by the Commission.

7. Learned counsel for the State submits that when the appointment of the father of the petitioner was found

illegal, then there is no question of appointment of the petitioner on the basis of compassionate ground. The authorities have rightly rejected the claim of the petitioner and there is no merit in this petition.

8. Accordingly, this writ petition stands disposed of.

(Rajesh Kumar Verma, J)

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