

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8145 of 2018

Dr. Shiv Shankar Prasad S/o Late Bangali Sahu, Resident of Village-
Mohalla- Vishwanath Nagar Park Road, Near North of SBI Bank, Begusarai,
P.S.- Begusarai Town, District- Begusarai.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Commissioner cum Secretary, Urban Development Department, Govt. of Bihar, Patna.
3. The Additional Secretary, Urban Development Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Urban Development Department, Govt. of Bihar, Patna.
5. The Special Officer, Begusarai, Municipality District- Begusarai.
6. The Administrator Begusarai, Municipal Corporation at Begusarai, District- Begusarai.
7. The Mayor Begusarai, Municipal Corporation, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dharmendra Kumar Singh, Adv
For the Respondent/s : Mr.Abbas Haider -SC-6

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

13 07-10-2024 Heard learned Counsel for the petitioner and

Learned Counsel for the State.

2. The present writ petition has been filed for quashing of the order dated 21.03.2018 passed by Deputy Secretary of Urban Development Department Bihar Government and further direction be given to obey the guideline of State Government as well as order passed by the Hon'ble Apex Court in similarly situated case in the service of petitioner.

3. Upon perusal of records, it transpire that whole



grievance of the petitioner is that, he has served as Homeopathy Doctor in the Municipal Corporation, Begusarai be treated as other doctors of the Homeopathy Department. But on the other hand, the said letter No. 1680 dated 21.03.2018 indicates that the employee of Municipal Corporation cannot be treated to be the employee of State Government. He further submits that this letter has been issued in the year 2018 whereas this Hon'ble Court has pleased to decide this issue vide order dated 21.01.2010 passed in C.W.J.C. No. 18372 of 2009 in case of ***Dr. Narbadeshwar Tripathy and Ors. Vs. State of Bihar*** in which this Hon'ble Court has pleased to hold that the petitioners of the said writ petition who were serving as indigenous doctors in Zila Parishad shall be treated as doctors of State Government and entitled for benefit under Rule 73 of the Bihar Service Code.

4. Counsel for Corporation submits that a letter No. 1680 dated 21.03.2018 has been issued with clear finding that the employees of Municipal Corporation may not be treated as the employee of the State Government, and therefore, petitioner is entitled for no relief. He further submits that in the light of Annexure-C of the supplementary Counter affidavit, the stand of the Corporation is very clear that the petitioner is not entitled for



the said benefit.

5. After hearing the pleadings of the parties, this Court hereby directs the petitioner to file a fresh representation before the Commissioner-cum-Secretary, Urban Development Department, Govt. of Bihar, Patna and the same shall pass reasoned and speaking order in the light of the order passed in the case of ***Dr. Narbadeshwar Tripathy and Ors. Vs. State of Bihar*** in which this Hon'ble Court has pleased to observe as follows:

5. I see substance in the submission made by the counsel for the petitioners and as the petitioners in the writ petition are serving the Zila Parishad as indigenous doctors, may be in the discipline of Ayurvedic/Homeopathic /Unani, their case for superannuation is required to be considered in the light of second proviso to Rule 73 of the Bihar Service Code, as amended under notification bearing Memo No. 1262 dated 25.2.2009, Annexure-6 and they are entitled to be superannuated on attaining the age of 62 years and not prior thereto.

6. In view of my findings above, Rule 73 of the Bihar Service Code, as amended under notification dated 25.2.2009, Annexure-6 is applicable to all the Zila Parishad(s) and the order to the contrary passed by the Secretary, Panchayati Raj bearing Memo No. 5485 dated 5.10.2009, Annexure-I, Memo No. 285 dated 07.12.2009, Annexure-10 and Letter No. 388 06.01.2010, Annexure-11 passed by Deputy Development Commissioner, Sheohar. Patna are quashed.

7. This writ application is, accordingly, disposed of.

6. It is directed to the respondent No. 2 i.e. the Commissioner-cum-Secretary, Urban Development Department,



Govt. of Bihar, Patna to take decision on the representation filed by the petitioner in the light of clause 4(C) of Bihar State litigation Policy of 2011 within 90 days from the date of its filing along with a copy of this order.

7. It is made clear that since, according to the submissions made by the Learned Counsel for the petitioner, petitioner has already superannuated, and hence, the Municipal Commissioner/Executive Officer of Municipal Corporation, Begusarai is directed to ensure the payment of entire admitted retiral dues of the petitioner within 30 days, thereafter.

8. With the aforesaid observation and direction, the present writ petition stands disposed off.

(Dr. Anshuman, J)

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