

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9925 of 2024

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Suman Kumar Suman Son of Late Bishundeo Singh @ Bishnudeo Singh
Resident of Ward No. 3, Baltara, Phulwari, P.S.- Gogri, District- Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Director-in-Chief, Health Services, Bihar
4. The Civil Surgeon-Cum-Chief Medical Officer, Begusarai.
5. The Incharge Medical Officer, Primary Health Centre, Mansurchak, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rishi Raj Raman, Advocate
For the Respondent/s : Mr.Advocate General

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 01-07-2024

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that
inadvertently the name of respondent No.3 has been wrongly
typed as the word 'Health' has been typed as 'Heal'. Hence, he
seeks permission to correct the same.

3. As prayed for, he is permitted to correct the same
during course of the day.

4. Learned counsel for the petitioner submits that the
present writ has been filed for the following relief/s :-

“(i) For issuance of necessary direction



upon the respondent authorities to pay the salary to the petitioner for the post of Pharmacist w.e.f. 30.07.2015 to 03.05.2018 as the petitioner remained deprived from selection for the post on account of lapses on the part of the respondents and pursuant to an order passed by this Hon'ble Court in CWJC NO. 12691 of 2017, the respondents issued the appointment letter to the petitioner.

(ii) For holding that due to the arbitrary action on the part of the respondent authorities, the petitioner remained deprived from appointment while other similarly situated persons were already appointed in the year 2014 itself and therefore, the respondents are liable to pay the salary for the period the petitioner remained deprived from appointment.”

5. Learned counsel for the petitioner further submits that the petitioner has been granted relief by the respondent authorities and according to which the appointment letter had been issued to him. He further submits that the respondent authorities have failed to consider his date of appointment from the effective date and instead thereof, they appointed him on a later date. Being aggrieved and dissatisfied with the same, the petitioner filed a representation which is Annexure -7 to the writ petition, but no decision has been taken by the authorities on the representation of the petitioner. Thereafter, the present writ



petition has been preferred. Learned counsel for the petitioner further submits that a direction may be given to the respondent authority to consider his representation before him.

6. Learned counsel for the State on the other hand submits that the petitioner could not be granted the said relief due to the reason that the appointment of the petitioner was made by the order passed by this Hon'ble Court dated 11.01.2018 in CWJC No. 12691 of 2017. In the said order, there is no direction that the petitioner should be appointed from 2015 rather it was directed that the issuance of an appointment order be made within six weeks from the date of receipt /production of a copy of the judgement. Therefore, the petitioner's case could not be considered.

7. After hearing the parties, it transpires to this Court that there are legal barriers for the petitioner to get the relief as prayed in the writ petition due to the reason that Section 11, Explanation -V of the Code of Civil Procedure, 1908as well as the order IIRule 2 of the Code of Civil Procedure, 1908crate a bar in both situations. The relief which has not been granted by the earlier judgement passed in favour of the petitioner dated 11.01.2018 in CWJC No. 12691 of 2017, as such any other prayer is deemed to be refused and as well as in the light of the



order 2Rule 2 Code of Civil Procedure, 1908 if the petitioner has not raised any claim in the earlier writ petition, he cannot claim those claims afresh. Particularly when in view of the Court's cause of action has already taken place at the time of filing the writ petition and he has not raised the present relief which he ought to have raised at an earlier point in time.

8. In view of the aforesaid, this Court is not inclined to grant any relief to the petitioner. Accordingly, the present writ petition stands dismissed.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	03/07/2024
Transmission Date	NA

