

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9911 of 2024

1. Raj Kishore Singh Son of Late Ram Nagina Singh Resident of Village-Fakuli P.S. Fakuli, District-Chapra, Saran, Bihar-841316
2. Suresh Kumar Verma Son of Late Vidyanand Prasad Resident of Village-Paiga Mitrasen, P.S. Bheldi, District-Saran, Pin-841218.
3. Prabhat Kumar Sinha Son of Late Sukh Ram Prasad Resident of Village-Kuan Bichlipatti (Hanumangarhi), District-Saran, Pin-841316
4. Rama Kant Prasad Son of Late Shri Raghunath Rai Resident of Village-Basdila, Sakaddi, District-Saran, Bihar-841412.
5. Mamta Devi Wife of Late Bali Ram Singh Resident of Village-Dumari Govindpur, P.O. Manpur Damari Tola, District-Saran Pin-841414.
6. Sambhu Nath Singh Son of Late Nirsu Narayan Singh Resident of Village-Pirauna, P.O. Pirauna, District-Saran, Pin-841201
7. Dina Nath Gokul Son of Late Kedar Nath Sah Resident of Village-Ward No.16, Chatradgari Bazar, District-Chapra, Bihar-841301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Vikash Bhawan Bailey Road, Patna-800001.
2. The Deputy Secretary, Department of Health, Government of Bihar, Vikash Bhawan, Bailey Road, Patna-800001.
3. The Director-in-Chief, Health Services, Government of Bihar, Vikash Bhawan, Bailey Road, Patna-800001.
4. The Deputy Director, Health Services, Government of Bihar, Patna.
5. The Regional Director, Department of Health, Saran Division at Chapra.
6. The Civil Surgeon-Cum-Chief Medical Officer, Saran at Chapra.
7. The Finance Secretary, Government of Bihar, Patna.
8. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Sinha, Advocate
For the Accountant General : Mrs. Nivedita Nirvikar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL JUDGMENT

Date : 01-07-2024

The petitioners are superannuated from the post of
Basic Health Worker (बुनियादी स्वास्थ्य कार्यकर्ता) under the Health



Department. After superannuation, they filed a writ petition praying for enhancement of their pay scale similar to the pay scale of ANM (Auxiliary Nurse Midwife). The Department refused to consider their prayer. Rejection of their prayer initially lead them to file a writ petition before this Court being ***CWJC 9121 of 2021 (Rajendra Singh and Ors Vs. The State of Bihar and Ors.)***. The said writ petition, however, was dismissed on the ground that in the absence of demand before the competent authority by submitting a detailed representation. The petitioners did not have any vested right for which they are entitled to appropriate relief by the writ court. While dismissing the previous writ application, the Co-ordinate Bench relied on the decision of the Hon'ble Supreme Court in ***Mani Subrat Jain Etc vs State Of Haryana And Ors.*** reported in ***AIR 1977 SC 276***. Subsequently, petitioners filed a representation before the competent authority for enhancement of their Pay Scale. The said representation was rejected by Director-in-Chief, Community Health and Paramedical Department, Health Services, Bihar, Patna. It is contended on behalf of the petitioners that the petitioners were appointed on the basis of an advertisement issued in the year 1973 sometimes in 1976. At that relevant point of time, there was no rule governing the scale of pay of BHW, however, a list of non-gazetted common categories was



published by the Scretariat and the Auxiliary Nurse Midwife (ANM) was listed in item no. 17 under Mufassil Establishment and the Basic Health Worker (BSW) was listed in serial no. 13 of the Malaria Eradication Programme and Pay Scale of both the cadres were similar. Subsequently, however, the details job responsibility of ANM was fixed with minimum academic qualification. It was directed that the minimum academic qualification for the post of ANM would be 10+2 (Intermediate) pass with Auxiliary Nurse Midwifery Training Course. However, BHW (बुनियादी स्वास्थ्य कार्यकर्ता) does not require such qualification and they are entitled to be recruited having academic qualification of 10+2 (Intermediate). It was also observed in Annexure P/5 that BHW is directed to act to help ANM. Thus, considering the academic qualification and the job responsibility, Pay Scale of ANMs was fixed at higher rate than the BHWs. Since, petitioners were appointed in service prior to the change of duties of ANM and BHW.

2. It is contended on behalf of the petitioners that they are entitled for similar Pay Scale as that of the ANM.

3. This Court is not in a position to consider the prayer made by the petitioners because during the service period of the petitioners, the academic qualification and the responsibility of



duty of BHWs and ANMs were changed and ANM was directed to perform additional duties and discharge more responsibilities than BHW. Since, the nature of work of BHW and ANM are different, the petitioners cannot claim ‘Equal pay for equal work’ .

4. Accordingly, I do not find any merit in the instant writ petition and the instant writ petition is dismissed on contest.

(Bibek Chaudhuri, J)

Suraj Dubey/-

AFR/NAFR	NAFR
CAV DATE	NA
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