

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10778 of 2024

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Anita Kumari Wife of Sri Satyendra Prasad Resident of Village-Jaganpur,
P.O.-Jodhan Bigha, P.S.-Belchhi, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Depoartment, Bihar, Patna.
2. The Director in Chief, Health Department , Bihar, Patna.
3. The Bihar Statt Selection Commission through its Chairman, Vetnary College, Patna.
4. The Secretary, Bihar Staff Selection Commission, Vetnary College, Patna.
5. The Civil Surgeon Cum Chief Medical Officer, Biar Sharif, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dilip Kumar Tiwari, Advocate Mr. Amit Kumar Anand, Advocate Mr. Kumar Manglam, Advocate
For the Respondent/s	:	Mr. Advocate General

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 22-07-2024

The petitioner has approached the extraordinary jurisdiction of this Court under Article 226 of the Constitution alleging, *inter alia*, that in pursuance to notification dated 17th February 2016 issued under the signature of the Secretary, Bihar Staff Selection Commission, Bihar. It was directed that requisite number of candidates on the post of A.N.M. would be appointed. The petitioner submitted his candidature, she was found qualified, thereafter on 28th December 2016 counseling was done and on 02nd November 2018 recommendation was made for the appointment of selected candidates on the post of A.N.M. Subsequently, on 20th January 2019, Commission recommended 6480 candidates finally,



for appointment. The case of the petitioner was withheld on the ground that she filed more than one application. Subsequently, on the recommendation of the Committee, other selected candidates were appointed on 20th August 2019. The petitioner, thereafter, approached this Court by filing a CWJC No. 8034 of 2021, which was disposed of in following words:-

“Grievance of the petitioner is relating to issue of appointment letter pursuant to selection to the post of A.N.M. is pending consideration before the appointing authority. Therefore, appointing authority is hereby directed to take note of selection material and proceed to pass order of appointment. If the petitioner is not eligible to be appointed in that event speaking order shall be passed as to why the petitioner is not entitled for appointment. Such reasoned order shall be passed within a period of four weeks from the date of receipt of this order.”

2. The respondents failed to comply with the said direction in the aforesaid writ petition which prompted the petitioner to file a contempt petition being MJC No. 341 of 2022. The said application was disposed of on the basis of submission made by the learned counsel for the State that the order passed in CWJC NO. 8034 of 2021 dated 01st December 2021 has already been complied on 20th August 2022.



3. Subsequently, the petitioner approached this Court in CWJC No. 9196 of 2023 for the following reliefs:-

“1(i) For issuance of a writ in the nature of Mandamus directing and commanding the respondents to shift the date of appointment of the petitioner to an earlier date i.e. w.e.f. 20-8-2019 from which date other similarly situated candidates were appointed on the post of A. N. M. in the same transaction.

(ii) For issuance of an appropriate writ directing and commanding the respondents to give the petitioner all consequential benefits after shifting the date of appointment and posting the petitioner on the post of the A. N. M. to an earlier date i.e. w.e.f. 20-8-2019 from which date other candidates have been appointed in the same transaction.”

4. The said writ petition was disposed of with the following direction:-

“It is needless to state that in case appropriate petition is filed, by the petitioner, before the Director in Chief, Health Services, Bihar, Patna, within a period of two weeks from today, the same shall be considered, in accordance with law and a reasoned and a speaking order shall be passed, thereon, within a period of six weeks, thereafter.”

5. The reasoned order was accordingly passed on 09th April 2024.



6. It is stated in the reasoned order that on the basis of the direction issued by the Health Department *vide* a notification 858(6) dated 11th august 2022, Smt. Anita Kumari was appointed in Health Sub-center, Moniumpur. She took charge on 20th August 2022. Therefore, she cannot claim notional appointment with effect from 20th August 2019.

7. I have heard the learned Advocate appearing for the petitioner as well as the learned counsel for the State respondents.

8. I have already quoted the prayer made by the petitioner in CWJC 9196 of 2023. The prayer was for issuance of a writ in the nature of mandamus directing and commanding the respondents to shift the date of appointment of the petitioner to an earlier date i.e. w.e.f. 20-8-2019 from which date other similarly situated candidates were appointed on the post of A. N. M. in the same transaction. That relief was duly considered by the Co-ordinate Bench in CWJC No. 9196 of 2023. The petitioner has approached this Court by filing the instant writ petition almost with same prayer. Therefore, the instant writ petition is barred by the principle of constructive *res judicata*.



9. In view of such legal bar, I am not in a position to grant any relief to the petitioner. The instant writ petition is accordingly dismissed.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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