

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.761 of 2024
In
Civil Writ Jurisdiction Case No.9911 of 2024

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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- 841301.
 7. Dina Nath Gokul, Son of Late Kedar Nath Sah, resident of Village- Ward No. 16, Chatradhari Bazar, District- Chapra, Bihar- 841301.

... .. Appellant/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 Appellant/s : Mr.Anil Kumar Sinha, Advocate
For the Respondent/s : Mr.Addl. Advocate General (9)



**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 29-11-2024

The appellants are Basic Health Workers (BHW) under the Health Department appointed as early as in 1976; on the basis of an advertisement issued in the year 1973. Their claim in the appeal is pay parity with ANM (Auxiliary Nurse Midwife).

2. An earlier writ petition numbered as ***CWJC No. 9121 of 2021 (Rajendra Singh and Ors vs. The State of Bihar)***, for the very same relief was dismissed on the ground that there was not even a demand made before the competent authority; thus dis-entitling the petitioner for a mandamus. There was also an observation that the petitioners did not have any vested right to pay parity as has been held in ***Mani Subrat Jain Etc vs. State of Haryana*** reported in ***AIR 1977 SC 276***. There is no judicially enforceable right or a legally protected right, available to the petitioners; which alone can bring forth a valid plea of a legal grievance, which can lead to a claim for issuance of mandamus.



3. The petitioners, then filed a representation before the competent authority which was rejected and the writ petition was filed against the said rejection.

4. The learned Single Judge found that there was no sustainable claim for pay parity considering the job responsibility of the ANMs and the academic qualifications prescribed for their appointment, which were higher than that of BHWs.

5. Admittedly, the appellants were appointed in the year 1976 and the basic qualification required for recruitment was 10+2 (Intermediate). A list of non-gazetted common categories was published by the State of Bihar in which the BHWs were included at Serial No. 13 under the Malaria Eradication Programme, while ANMs were listed under Item No. 17 of the Mufassil Establishment. A detailed job responsibility of ANMs was brought out with minimum academic qualification; which was 10+2 (Intermediate) with Auxiliary Nurse Midwifery Training Course. The BHWs were also directed to assist the ANMs in their job.

6. Hence, both by responsibility and qualification, the ANMs were on a higher pedestal. There



could be no violation of equality claimed by the appellants,
who are BHWs.

7. We find absolutely no reason to entertain the
appeal and we reject the same.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

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