

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6974 of 2016

Dr. Devi Dutta Gupta Son of Late Chandra Dutt Prasad Gupta, resident of 404, Basudeo Place Block- B, Ranjan Path, Baily Road P.S.- Danpur, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Health Government of Bihar Patna.
3. The Accountant General of Bihar, Birchand Patel Marg, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shashi Bhushan Kumar, Advocate Mrs. Arti Kumari, Advocate
For the State	:	Mr. Arvind Kumar (AC to GA-9)
For the AG	:	Mrs. Nivedita Nirvikar, Sr. Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 18-02-2025 Heard Learned Counsel for the petitioner, Learned Counsel for the State and Learned Senior Counsel for Accountant General, Bihar, Patna.

2. The present writ petition has been filed for quashing of the letter No.477 (17) dated 13.05.2011 (annexed as Annexure-8) by which the respondent authorities have rejected the claim of the petitioner for granting regular promotion from the date of joining on the promoted post in the acting capacity w.e.f. from 18.05.1997.

3. Learned Counsel for the petitioner submits that the petitioner was appointed on the post of Assistant Professor on



28.10.1978 in the department of Radiology and posted at S.K.M. College, Muzaffarpur. Counsel submits that the petitioner was promoted on the post of Associate Professor and posted at M.G.M. College, Jamshedpur on 24.11.1983. He submits that *vide* notification dated 14.05.1997, memo no.148(17) issued from the Health and Medical Education, petitioner was promoted on the post of Professor on the acting arrangement and posted at Patna Medical College and Hospital, Patna. Counsel further submits that petitioner was relieved from the M.G.M. College, Jamshedpur w.e.f 16.05.1997 by the Principal M.G.M. College, Jamshedpur. Counsel submits that petitioner had given joining on 18.05.1997 to the Principal, P.M.C.H., Patna, but he refused to accept the joining and thereafter, petitioner has submitted his joining paper in the office of the Principal, P.M.C.H., Patna but, receiving has not been provided to him. Thereafter, petitioner *vide* application dated 28.05.1997, communicated to the District Magistrate, Patna for the information and necessary action. The District Magistrate send the application to the Principal, P.M.C.H., Patna *vide* memo dated 30.05.1997. Counsel submits that petitioner has informed in this regard to the Health Department also and ultimately, his joining was accepted on 18.07.1997. Counsel



further submits petitioner's promotion was regularized *vide* Memo No.673 (17) dated 23.05.2008 (annexed as Annexure-5) w.e.f. date of notification i.e. from 23.05.2008. Counsel submits that the petitioner's claim is that his date of promotion be treated w.e.f. 18.07.1997 instead of 23.05.2008.

4. Learned Counsel for the petitioner further submits that he has filed representations for grant of regular promotion from the date of joining i.e. from 17.05.1997, but his request for regular promotion has been rejected and thereafter, petitioner has preferred this writ petition. Counsel submits that *vide* Annexure-5, i.e. Memo No.673 (17) dated 23.05.2008, there were four persons who have been promoted to the post of Professor w.e.f. 23.05.2008. Counsel submits that Dr. Gajendra Kishore Thakur who was at Sr. No.3 has preferred writ petition before this Hon'ble Court in Civil Writ Jurisdiction Case No.14372 of 2012 by which *vide* order dated 05.09.2012, he was granted promotion with retrospective effect and w.e.f. retrospective regularization, all monetary benefits was granted to him. Counsel further submits that one other candidate having similar case who was regularized *vide* order dated 23.05.2008, has moved before this Hon'ble Court in Civil Writ Jurisdiction Case No.13132 of 2012 (Dr. Mrs. Geeta Singh Vs. The State of



Bihar & Ors.) and the said writ petition was allowed on 10.09.2012. Counsel further submits that the order passed in C.W.J.C. No. 13132 of 2012 has been challenged by the State of Bihar & Ors. in Letters Patent Appeal No.1451 of 2013 which was dismissed by the Hon'ble Division Bench of this Court. And they were granted regular promotion as a Professor in the respective department w.e.f. retrospective date with all benefits attached with the post of Professor.

5. Learned Counsel for the petitioner further submits that case of Dr. Gajendra Kishore Thakur (C.W.J.C No.14372 of 2012) and case of Dr. Mrs. Geeta Singh (C.W.J.C No.13132 of 2012) affirmed in L.P.A. No. 1451 of 2013 are absolutely identical. Counsel further submits that Dr. N.P. Yadav was also promoted from the same notification and joined as Professor in acting arrangement w.e.f. 15.05.1997 and took charge on 26.04.1998 and he was regularized on the promoted post *vide* notification contained in Memo No.962(17) dated 21.10.2005 has been provided all benefits by virtue of Annexure-9 whose promotion has been considered w.e.f. 15.05.1997 itself.

6. Learned Counsel for the State submits that petitioner is now retired and therefore, actual promotion could not be granted to him. Counsel further submits that whatever be



argued on behalf of the petitioner for three Professors other than the petitioner is correct, they have been granted monetary benefits from the date on which they have been promoted on the acting Professors.

7. After hearing the parties and going through the documents, this Court reached on the conclusion that the present case is squarely covered under Clause 4.C of the Bihar State Litigation Policy, 2011 and similar analogy shall also be drawn for the present petitioner particularly, when the matter has been decided by this Hon'ble Court in different C.W.J.Cs and affirmed the L.P.A. No. 1451 of 2013 by Hon'ble Division Bench of this Court.

8. In this view of the matter, Respondent-State is hereby directed to grant all monetary benefits to the petitioner treating him to be promoted as a Professor w.e.f. 18.07.1997 from the date he joined on the post of Professor. It is made clear that since, petitioner is now retired, therefore, it is directed to the State to calculate all the notional benefits and pay his entire arrear for which he is entitled from the said date mentioned in the order within 3 months from the date of production of this order.

9. It is also directed that after correcting the date of



regular Professorship of the petitioner, his pension is also be directed to be revised within the said period.

10. Accordingly, with the aforesaid directions, this writ petition is hereby allowed.

(Dr. Anshuman, J)

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