

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11459 of 2013

=====

Sudhir Kumar Son Of Late Jageshwar Mahto Resident Of Village- Azad
Nagar Ganj, Police Station- Bakhtiarpur, Post Office- Simri Bakhtiarpur,
District- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Health Department, Bihar, Patna.
2. The District Magistrate, Saharsa.
3. The Civil Surgeon Cum Chief Medical Officer, Saharsa.
4. The In-Charge Medical Officer, Primary Health Center, Salkhua, District-
Saharsa.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi, Advocate Ms. Homa Yunus, Advocate Mr. Rana Hason, Advocate Mr. Gyan Prakash Ojha, GA-7
For the Respondent/s	:	Mr. Devendra Kr Sinha, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 15-09-2025

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

2. The petitioner has filed the instant application for
the following relief(s) :-

*“i) For the issuance of an appropriate writ in
quashing the order of District Magistrate, Saharsa,
communicated to the petitioner vide Memo No. 681
dated 04.05.2013 (annexure 14).*

*(ii) For the issuance of an appropriate writ in
quashing the consequential orders of the Civil
Surgeon Cum Chief Medical Officer, Saharsa which
was communicated to the petitioner vide Memo No.*



1406 dated 09.05.2013 and the order which was communicated through letter No. 134 dated 10.05.2013 to the petitioner by the In-charge Medical Officer, Primary Health Center, Salkhua, Saharsa (annexure 15 & 16 respectively).

(iii) For the issuance of an appropriate writ commanding the respondents to reinstate the petitioner to the post of Class IV (Peon cum Jharukash) from the date of his removal i.e. 04.05.2013 with all consequential benefits.

(iv) For any other relief or reliefs as your lordship may deem fit and proper in the facts and circumstances of the case.”

3. The case of the petitioner in brief is that he was appointed on daily wage in the office of the Block Development Officer, Simri, Bakhtiarpur on 1.3.1988. In the list of daily wage employees prepared by the respondents, the name of the petitioner figured at Serial no. 2.

4. On the respondents coming out with a scheme for appointment against sanctioned posts from amongst the daily wage workers, Bande Lal Yadav whose name figured at Serial no. 1 in the panel dated 31.10.1994 was appointed on a regular basis in the office of the District Education Officer, Saharsa. So far as the petitioner and others were concerned, by order dated 19.3.1999, the District Magistrate, Saharsa terminated the services of the daily wage workers which led to the petitioner



filing CWJC no.12569 of 1999.

5. CWJC no.12569 of 1999 was disposed of by order dated 12.4.2005 directing the State-respondents to consider the case of the petitioner for appointment/regularization and empanelment giving them necessary upper age relaxation. Further direction was given to the authorities to consider and pay the arrears of wages.

6. After passing of the order dated 12.4.2005 in CWJC no.12569 of 1999, the respondents came out with an order dated 24.4.2007 temporarily appointing 45 candidates from the District Level panel of the year 1995-96 and 1997-98. The name of the petitioner figured at serial no.45 and he was appointed at the Primary Health Center, Salkhua.

7. One Uttam Lal Yadav moved the Patna High Court in CWJC no.8589 of 2007 claiming appointment in the Backward Class category. His case was that inspite of Sudhir Kumar (petitioner herein) being much below in the panel for the category, Sudhir Kumar had been illegally appointed while he had been left out. CWJC no.8589 of 2007 was disposed of directing the District Magistrate to consider the representation of Uttam Lal Yadav within a reasonable time.

8. The respondents having considered the



representation filed by Uttam Lal Yadav as directed by order dated 15.3.2012 (Annexure-13) and taking into consideration the relevant position in the panel prepared, Uttam Lal Yadav was found fit for appointment and the appointment of Sudhir Kumar was set aside.

9. It is against this order dated 4.5.2013 of the District Magistrate, Saharsa and the consequential orders dated 9.5.2013 of the Civil Surgeon-Cum-Chief Medical Officer, Saharsa and the order dated 10.5.2013 of the In-charge Medical Officer, Primary Health Centre, Salkhua, Saharsa that the instant application has been preferred with a further prayer to reinstate the petitioner on the post of Class-IV with effect from 4.5.2013.

10. It is submitted by learned counsel for the petitioner that the name of the petitioner had been recommended by the District Level Establishment Committee and it was pursuant to the order dated 12.4.2005 passed in CWJC no.12569 of 1999 that he was appointed. Further with respect to the order dated 15.3.2012 passed in the case of Uttam Lal Yadav, the Court had directed the respondents to consider the case of Uttam Lal Yadav but there was no direction to remove Sudhir Kumar.

11. It is submitted by learned counsel appearing for the respondents that pursuant to the recommendation of the



District Establishment Committee, Saharsa in its meeting held on 24.4.2007 that the petitioner whose name figured at Serial no. 386 of the prevailing panel prepared for the year 1997-98 was appointed on the vacant post of Class-IV available in the Backward Class category on 26.4.2007. Pursuant to the order dated 15.3.2012 in the case of Uttam Lal Yadav on a comprehensive review of the appointment of the petitioner by the District Appointment Committee, Saharsa held on 3.5.2013 it transpired that while Uttam Lal Yadav was at serial no. 14, the petitioner was at serial no. 386 of the panel and as such setting aside the order of appointment of the petitioner, Uttam Lal Yadav was appointed. It is thus not possible to appoint the petitioner.

12. Having heard learned counsel for the parties and having perused the material on record, the relevant facts of the case are that the services of the petitioner who was working as the daily wage worker having been terminated by order dated 19.3.1999 by the District Magistrate, Saharsa, the petitioner moved this Court by CWJC no.12569 of 1999, which was disposed of directing the respondents to consider the case of the petitioner for appointment/regularization. Pursuant thereto the petitioner was provisionally appointed by order dated 26.4.2007.



13. It was in the year 2007 itself that Uttam Lal Yadav challenged the appointment of the petitioner and also prayed for his own appointment in the Backward Class category by filing CWJC no.8589 of 2007, which came to be disposed of by order dated 15.3.2012 directing that the District Magistrate should consider the representation of Uttam Lal Yadav and if he is of the view that Uttam Lal Yadav deserves preference over Sudhir Kumar, he be given Class-IV post. It was further ordered that if the representation of Uttam Lal Yadav does not find favour with the District Magistrate, he should pass order within the same time giving reasons as to why Uttam Lal Yadav has been ignored and Sudhir Kumar appointed.

14. It has not been contested/disputed that both the petitioner Sudhir Kumar and Uttam Lal Yadav belong to the same category and in the panel prepared, the name of Uttam Lal Yadav figures higher than that of Sudhir Kumar.

15. In this view of the matter on the respondents considering the case of Uttam Lal Yadav pursuant to the direction contained in order dated 15.3.2012 (Annexure-13) passed in CWJC no.8589 of 2007, the respondents set aside the appointment of Sudhir Kumar and appointed Uttam Lal Yadav.

16. Learned counsel for the petitioner has not been



able to show any illegality in the order dated 4.5.2013 passed by the District Magistrate, Saharsa. The Court finds no merit in the instant writ application.

17. The application is dismissed.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	15.09.2025
Transmission Date	

