

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5003 of 2017

Smt. Suchitra Kumari wife of Sri Sushil Kumar Lal resident of village - Rasoolpur Wajid, Post Office - Bhikhanpur, Police Station - Ahiyapur, District - Muzaffarpur, 842004, presently posted as a Ladies Hostel Superintendent-cum-Care taker in Shri Krishna Medical College and Hospital Muzaffarpur, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Health Services, Bihar, Patna, Vikas Bhawan, Bailey Road, Patna - 800015.
3. The Secretary, Health Services, Bihar, Vikas Bhawan, Bailey Road, Patna - 800015.
4. The Commissioner, Health Services, Bihar Vikas Bhawan, Bailey Road, Patna - 800015.
5. The Principal, S.K.M. College and Hospital, Muzaffarpur, District - Muzaffarpur.
6. The Dy. Director, Health Services, Bihar, Vikas Bhawan, Bailey Road, Patna - 800015.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gajendra Kr. Jha, Adv. Mr. Surya Kant Mishra, Adv. Mr. Raj Nandan Pd. Singh, Adv.
For the Respondent/s	:	Mr. S.D. Yadav, AAG- 9 Mr. Anil Kr. Verma, AC to AAG- 9

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

[illegible]

Re:- I.A. No. 1 of 2022

2. Learned Counsel for the petitioner submits that during the pendency of this writ petition, this I.A. No. 1 of 2022 has become infructuous. Therefore, he is not pressing the same.



Re:- CWJC No. 5003 of 2017

3. The present writ petition has been filed for directing the respondent authority to pass order in the nature of mandamus to make regularization to the service of the petitioner on which the petitioner was working as Mahila Superintendent-cum- Caretaker in the Shri Krishna Medical College and Hospital, Muzaffarpur.

4. Learned Counsel for the petitioner submits that the petitioner's date of birth is 09.01.1967. She completed her High School studies from the Bihar School Examination Board in 1981, her Intermediate studies in 1985 from Lalit Narain Mishra University, and obtained her Bachelor of Arts degree in 1988 from the same university, i.e., L.N.M. University, Darbhanga. Counsel further submits that the petitioner is eligible and fit for regularization to her current post of Ladies Hostel Superintendent-cum-Caretaker at S.K.M. College, Muzaffarpur. Counsel further submits that her case has been recommended by the Principal of the college for regularization before the concerned department multiple times, but no decision has been taken. In 1994, the petitioner moved before this Hon'ble Court in CWJC No. 10184 of 1994 (*Suchitra Kumari v. State of Bihar & Ors.*), in which this Hon'ble Court has pleased to direct the



petitioner to file a representation before the concerned authority for consideration of granting preference as claimed before this Court and then respondent shall take a decision to advertise the post and fill up the same on regular basis. Counsel also submits that the Principal, through several annexures, had requested and notified the authorities to continue the petitioner on a contractual basis in the said hostel at S.K.M. College, Muzaffarpur. Furthermore, Counsel submits that since the petitioner has now reached the age of 58 years, her case should be treated as a regular post, and she should be directed to be regularized. Counsel also states that the post on which the petitioner is working is a sanctioned vacant post.

5. Learned Counsel for the State submits that the petitioner has no legal right to claim regularization, as she was initially employed as a daily wager and later worked on a contract basis, with her contract being extended from time to time. Counsel further submits that the mere extension of the contract does not create any permanent right in favor of the petitioner. Counsel also submits that the petitioner's case cannot be considered for regularization and should be rejected

6. After hearing the parties, it transpires to this Court that the petitioner had previously moved before this Hon'ble



Court in CWJC No. 10184 of 1994, in which *vide* order dated 11.08.1995, assertion has been made which states as follows:-

The prayer is to direct the respondents to regularise the service of the petitioner against the post of Hostel Superintendent, Ladyies Hospital, Shri Krishna Medical College, Muzaffarpur.

3. Admittedly, till this day, the petitioner has not been appointed on regular basis. According to her, she continued to work on daily wages from 17.6.1991 till August, 1994. In my view, since she is working only on daily wages, it cannot make a claim for regularisation, because the post has to be filled up on regular basis. The respondents have taken a decision to advertise the post and fill up the same on regular basis. Therefore, the petitioner is at liberty to file an application, if the post is advertised and her case will also be considered along with others, in accordance with law. In case rules provide, she can make a representation before the authority for grant of preference etc as claimed before this Court.

3. With the aforesaid observation/direction, this application is disposed of



7. However, even after a lapse of about 30 years, no advertisement has been issued, which is an unfortunate situation. Therefore, it is directed that the Director-in-Chief, Health Services, take a decision regarding the advertisement for the said post, for which the petitioner has filed the writ petition to be regularized. The advertisement should be made through the Principal, upon instructions issued by the State, within 90 days from the date of production of this order. If the advertisement and the process of appointment are not completed within six months, the Director-in-Chief, Health Services, as well as the Principal of S.K.M. College, Muzaffarpur, shall be held under contempt.

8. With this direction the writ petition stands disposed off.

(Dr. Anshuman, J.)

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