

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16168 of 2025

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Sanjeev Kumar Singh @ Sanjeev Kumar S/o- Late Indrajeet Kumar Singh @
Indrajeet Singh R/o- Fatehganj, Gurudwara Road, Near Dangi Chatrvas,
Gaya, Bihar- 823002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration Department, Government of Bihar, Patna.
2. The Health Department, Government of Bihar, through the Principal Secretary, Bihar, Patna.
3. The Director in Chief, Health Services (Disease Control, Public Health and Para-Medicals), Government of Bihar, Patna.
4. The Civil Surgeon, Gaya, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Piyush Kumar Pandey, Advocate
For the Respondent/s : Mr. Government Pleader (17)

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 01-12-2025 The writ petitioner was appointed as Basic Health Worker at Primary Health Centre, Imamganj, Gaya on compassionate ground on 12.04.2010.

2. Subsequently, the Director of Health issued a Notification No.535(4) dated 28.03.2012 to all Civil Surgeons including the Civil Surgeon, Gaya that an employee, who does not have technical qualification cannot be appointed as Basic Health Worker. For the appointment of Basic Health Worker requiring technical experience/training is absolutely necessary. Therefore, some of the similarly situated persons were shifted from technical service to non-technical service as Lower



Division Clerks. Subsequently, on passing departmental examination, they were promoted to Upper Division Clerk (Level-4).

3. As per the said general order bearing No.535(4) dated 28.03.2012, the petitioner's service was also shifted from Basic Health Worker to Lower Division Clerk vide order dated 13.08.2012. Subsequently, he passed departmental promotional examination and was appointed as Upper Division Clerk vide Annexure-P/18.

4. It is also contended on behalf of the petitioner that the similar issue came up for consideration before this Hon'ble Court in CWJC No.2205 of 2006 (Shri Niwas Prasad Vs. The State of Bihar and Others) and vide order dated 16.12.2010, the Director-in-Chief, Health Services, Government of Bihar, Patna was directed to pass an appropriate order either for getting the petitioner trained, if the posts require technical training or for posting him on non-technical equivalent post.

5. The petitioner was also refers to an order issued by the Directorate of Health Services vide order No.879(4) dated 06.06.2025 by virtue of which Director-in-Chief, (Deceased Control Community Health Services and Paramedical), Health Services, Bihar, Patna directed the Civil Surgeon, Nalanda to



appoint one Shri Niwas Prasad to the Non-Technical Lower Division Clerk. In the same line, the petitioner submitted a representation on 08.05.2025, but the said representation has not been disposed of.

6. The learned Advocate on behalf of the State, on the other hand, refers to Annexure-P/1 of the writ petition being Notification No.434(4) dated 12.03.2025 issued by the Department of Health, Government of Bihar.

7. In the said notification, it is stated that the Finance Department opined that a rules regarding the compassionate appointment was issued by the General Administration Department. As per the said Rules, any person may be transferred to the Lower Division Clerk after rendering their service from 18 to 38 years. If, any appointee on compassionate ground wants to have further benefit in the service, there will be allotment of further increment on compassionate ground, which is not promoted under the law.

8. The petitioner was appointed as Basic Health Worker and vide order dated 12.04.2010. At present, it is not appropriate to promote him to the post of Upper Division Clerk, which means change of cadre from technical to non-technical service as well as allowing him to appoint in higher post.



9. In reply, it is submitted by learned Advocate on behalf of the petitioner that the petitioner is not apply in higher post in non-technical cadre on compassionate ground. He was previously shifted from technical cadre to non-technical cadre by the respondent Authority itself on the basis of the general order dated 28.03.2012. Thereafter, he appeared before the departmental promotional examination and being successful he was promoted to the post of Upper Division Clerk (Level-4). Therefore, he cannot be relegated back to his feeder cadre, when the Authority granted him permission to appear in the examination for promotion.

10. It is not in dispute that the petitioner was appointed as Basic Health Worker on compassionate ground. The respondents did not deny that he had no change for being the Basic Health Worker. Thus, he could not be appointed as Basic Health Worker in technical cadre in the Health Department. Subsequently, the respondents themselves shifted the petitioner from technical cadre to non-technical cadre.

11. It is contended on behalf of the respondents that non-technical cadre of Lower Division Clerk is the higher post than Basic Health Worker.

12. Be that as it may, when the respondent Authority



appointed him subsequently to non-technical cadre as Lower Division Clerk, they cannot undue their wrong saying that the said order was illegal and wrong, a party cannot stand upon his case on the ground of commission of illegality.

13. Subsequently, the petitioner was allowed to appear in the departmental promotional examination and he was promoted in Departmental Competitive Examination. Therefore, he could not be relegated to technical cadre of Basic Health Worker again.

14. With regard to prayer No.(iii), the respondents are directed to taken into consideration the case of the petitioner in accordance with law.

15. The impugned order is arbitrary and illegal and liable to be quashed. The order is accordingly quashed and the instant writ petition, is thus, allowed on contest. However, there shall be no order as to cost.

(Bibek Chaudhuri, J)

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