

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17301 of 2023

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Faiyazuddin Ahmad Son of Late Shamsuddin Ahmad, Resident of Mohalla-
Agarpur, Police Station- Lalganj, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Bihar, Patna.
2. Principal Secretary, Health Department, Bihar, Patna.
3. Director, Health Service, Govt. of Bihar, Patna.
4. Regional Deputy Director, Health Services, Gaya Division, Gaya.
5. The District Magistrate, Gaya.
6. Civil Surgeon-cum-Chief Medical Officer, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Baidhnath Thakur Mr. Sachin Kumar Mr. Pramod Kumar Pd. Singh
For the Respondent/s	:	Mr. Amit Prakash (Ga 13) Mr. Prabhakar Thakur, AC to Ex. G.A. 13

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CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL JUDGMENT

Date : 30-08-2025

Heard the parties.

2. This application has been filed on behalf of the
petitioner for the following reliefs:-

(i) For quashing the official order dated 01.01.2020 issued by the Civil Surgeon-cum-Chief Medical Officer, Gaya whereby the services of the petitioner was terminated from the post of Male Ward Attendant in the Addl. Primary Health Center, Sewtar, Mohra, Gaya was cancelled with immediate effect.

Furthermore, a Writ of Mandamus be issued:-

(ii) For direction to the Civil Surgeon-cum-Chief



Medical Officer, Gaya to reinstate the petitioner on the post of Male Ward Attendant in the Addl. Primary Health Center, Sewtar, Mohra, Gaya with effect from the date of termination with all consequential benefits.

3. The brief facts of this case are that vide Advertisement No. 01/2013 dated 31.12.2013 issued by the Collectorate, Gaya, the Civil Surgeon-cum-Chief Medical Officer, Gaya vide Memo No. 3597 dated 16.09.2019 appointed the petitioner on the post of Male Ward Attendant in the Additional Primary Health Center, Sewtar, Mohra, Gaya. In the merit list the petitioner was at Serial No. 10 and he joined his service on time. Thereafter, Kapil Kumar and others filed CWJC No. 18612/2019 and other writ application/s before this Court challenging the provisional panel on the ground that the same was prepared without following the criteria mentioned in the Advertisement No. 01/2013 as their claims were ignored even though they remained engaged for more than 240 days as daily wagers and empanelled in 2004 and 2009-10. The petitioner of CWJC No. 18612 of 2019 and the petitioners of other writ applications also alleged that the appointments have been made without opportunity to the eligible candidates in the selection process.

4. By judgment and order dated 18.12.2019 all the



writ applications were disposed of with direction to the concerned respondents to ensure completion of fair selection process.

5. Pursuant to the judgment of this Court, the District Magistrate, Gaya terminated the services of several persons on 24.12.2019 appointed under the Advertisement No. 01/2013 and the Civil Surgeon-cum-Chief Medical Officer, Gaya vide Memo No. 02 dated 07.01.2020, terminated the services of the petitioner.

6. Being aggrieved by the termination, Sunita Kumari and others filed CWJC No. 2109/2020 before this Court challenging the order of their termination from service on the ground that they were not heard before passing of the order dated 18.12.2019 but the writ application was dismissed vide order dated 31.01.2020 with an observation that the order of termination was passed in compliance of the order dated 18.12.2019 passed in CWJC No. 18612/2019 and it requires no interference.

7. After dismissal of the the writ application, Sunita Kumari and others filed LPA No. 121/2020 against order dated 31.01.2020 which was allowed vide order dated 16.11.2022 and the orders of termination dated 24.12.2019,



07.01.2020 were set aside including the order dated 31.01.2020 and the respondents were given liberty to ask show-cause to the appellants, as to why, their services be not terminated in the light of the order dated 18.12.2019.

8. In light of the order dated 16.11.2022, the District Magistrate, Gaya vide Memo No. 181 dated 09.02.2023 asked show-cause to the petitioner to justify the legality and validity of his appointment and he was also asked to give his explanation along with relevant materials. In pursuance of the same, on 04.03.2023, the petitioner submitted an application before the District Magistrate, Gaya regarding his reinstatement on the post of Male Ward Attendant in the light of the order dated 16.11.2022 passed in LPA No. 121/2020 and for paying the arrears of salary as except the petitioner, all the appellants of LPA No. 121/2020 have been reinstated on their respective posts.

9. It is alleged by the petitioner that his case is also similar to those appellants as therefore, similar treatment ought to have been given to him which has been denied by the respondent authorities and accordingly, the present writ application has been filed.

10. It has been submitted by the learned counsel



for the petitioner that the petitioner several times approached the Civil Surgeon-cum-Chief Medical Officer, Gaya for reinstating him in service but only assurance has been given to him regarding the same but the grievance of the petitioner has not been redressed.

11. It has further been submitted by the learned counsel for the petitioner that the respondents have discriminated between the petitioner and the appellants of LPA No. 121/2020 and the petitioner is still awaiting his reinstatement and the action of the respondents arbitrary and illegal.

12. The State has opposed the application of the petitioner and has submitted that the appointment of the petitioner has been cancelled in compliance of the order of this Court as well as the entire selection process is sub-judice before this Court in CWJC No. 2310 of 2023 in as much as the Commissioner, Magadh Division, Gaya is reviewing the entire selection/appointment procedure in compliance of the order dated 29.10.2024 passed by this Court in CWJC No. 2310 of 2023 which is still pending.

13. I have heard and considered the submission of the parties.



14. This Court while deciding the LPA No. 104 of 2020 has passed following directions in the case of similarly situated persons:-

Perusal of the records, it is evident that in all fairness appellants should have provided an opportunity of hearing before termination/removal of the order dated 24.12.2019, even though District Magistrate, Gaya has implemented order of the learned Single Judge passed in Kapil Kumar case in CWJC No. 18612 of 2019 decided on 18.12.2019. In fact, in the case of Kapil Kumar the appellants were necessary and proper parties for the reason that learned Single Judge while passing order in Kapil Kumar case passed adverse order against the selection and appointment of the appellants. Against the order of the Kapil Kumar case both appellant and State have slept over their rights. However, District Magistrate, Gaya while passing orders of termination/removal dated 24.12.2019 has not given an opportunity. In the light of these facts and circumstances orders dated 24.12.2019, 01.01.2020 and order dated 31.01.2020 passed in CWJC No. 2109 of 2020 are set aside. Order of termination/removal is not a detailed speaking order in such circumstances District Magistrate, Gaya is hereby directed to issue a fresh detailed show-cause notice as to why the appellant services shall not be terminated/removed in the light of Kapil Kumar case, if such detailed show-cause notice is issued, the appellant and others rights are likely to be affected should submit their explanation in detail, within a period of four weeks from the date of receipt of notice to be issued by the District Magistrate, Gaya. On receipt of appellants and similarly situated persons who have furnished their explanation to the show-cause



notice those explanation shall be considered in detailed with reference to various policy decisions in respect of filling of Group D post in district Gaya. Each of the contention to be risen by the appellant and others in their explanation is required to be examined with reference to relevant rule governing the post of Group D read with advertisement dated 31.12.2013, select list and order of appointments. So as to whether process of selection and appointment to the Group D pursuant to the advertisement dated 31.12.2013 read with the select list and order of appointment issued to the respective parties are in order or not? If their selection and appointment are in order, in that event fresh order of appointment shall be issued while counting the past service for all service benefits except monetary benefits during the period from 24.12.2019 till order of appointment, if any, to be issued in favour of the appellant and similarly situated persons.

15. The case of the petitioner ought to have been considered in light of the judgment of the Division Bench of this Court but the same has not been considered.

16. In these circumstances, this application is allowed and accordingly, the impugned order of termination dated 7.1.2020 is hereby set aside and the respondents are directed to act as per the directions of the Division Bench in LPA No. 104 of 2020 which will also apply in the case of the petitioner.

17. Since the petitioner's age may now have



crossed 60 and if he succeeds and the respondents find that the termination of the petitioner is illegal then he shall be entitled to all consequential benefits.

18. The consideration by the respondent authorities must be done within four weeks from the date of communication of a copy of this order.

19. With the aforesaid observations and directions, this application stands allowed.

20. Any pending I.A., shall also be treated to be disposed of.

(Sandeep Kumar, J)

Vikas/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	2.9.2025
Transmission Date	NA

