IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1914 of 2023

CNR No. BRHC010085162023

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Binod Kumar Choubey Son of Late Vindhyachal Choubey, resident of Village- Ahirauli, P.S.- Buxar, Industrial Area, District- Buxar.

... ... Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Secretary, Health Department, Government of Bihar, Patna.
3. The Additional Secretary-Cum- Director General (Ayush), Health Department, Govt. of Bihar, Patna.
4. The Director, Desi Chikitsa, Government of Bihar, Patna.
5. The Deputy Secretary, Health Department, Government of Bihar, Patna.
6. The Under Secretary, Health Department (Ayush), Government of Bihar, Patna.
7. The Principal, Government Shree Dhanwantari Ayurved College and Hospital, Buxar, (Ahirauli).

... ... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shitanshu Shekhar Mishra, Advocate

For the Respondent/s : Dr. Chandrashekhar Azad,GP-15

Mr. Abhay Kumar Upadhyay, AC to GP-15

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 27-10-2026

Heard Mr. Shitanshu Shekhar Mishra, learned counsel appearing for the petitioner through virtual mode and Mr. Abhay Kumar Upadhyay, learned AC to Dr. Chandrashekhar Azad, learned Government Pleader -15.

2. The petitioner has filed the present writ petition for the following relief/s :-

"(a) For quashing only that part of the order contained in Memo No. 167

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(Aa. Chi.) dated 09.02.2018 issued under the signature of the Under Secretary Health Department, Government of Bihar, Patna whereby while absorbing the service of the petitioner with effect from his initial date of appointment/absorption i.e. 01.06.1986, the salary of the petitioner has wrongly been fixed in the basic scale of Rs. 18,000/- in Level-1 without granting any pay protection.

(b) For issuance of an order, direction or writ in the nature of mandamus commanding the respondents to revise the salary of the petitioner granting benefit of pay protection and fix the pay scale nationally taking into account the initial date of appointment i.e. 01.06.1986 and to pay consequential benefit thereupon.

(c) For issuance of direction to the respondents to further revise the pay scale of the petitioner after granting him benefit of three financial progression in terms of modified Assured Career Progression Scheme (MACP) which provides for grant of thee financial progression in the service career of an employee.

(d) For holding that fixation of pay scale of the petitioner in the basic scale of Rs.18,000/- in Level-1 and non-payment of three assured career progression is in violation of Article 14 and 16 of the constitution of India.

(e) For grant of any other

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relief or reliefs which the petitioner may be entitled in the facts and circumstances of the case."

3. Learned counsel for the petitioner submits that the instant writ petition was filed in the year 2023 and a counter affidavit has been filed on behalf of respondent nos. 2 to 6, representing the State, wherein a letter contained in Memo No. 818 dated 29.05.2025 has been annexed. Learned counsel further submits that a bare perusal of the said letter makes it abundantly clear that the office order contained in Memo No. 167 (Aa. Chi.) dated 09.02.2018 has been modified. Learned counsel further submits that, in view of the modification made by the Special Officer on Special Duty-cum-Director General, AYUSH, Department of Health, Government of Bihar, the grievances of the petitioner stand redressed.

4. Learned counsel for the petitioner further submits that, in the present circumstances, the petitioner seeks only a direction from this Court to respondent no. 2, namely, the Secretary, Health Department, Government of Bihar, Patna, to implement the order dated 29.05.2025 contained in Memo No. 818 (Annexure R/2 to the counter affidavit filed on behalf of respondent nos. 2 to 6).

5. *Per contra*, learned counsel appearing on behalf

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of the respondent-State submits that the stand of the State is clear and the State has no objection to the implementation of the aforesaid order dated 29.05.2025, contained in Memo No. 818.

6. In view of the changed circumstances arising during the pendency of the present writ petition, this Court considers it appropriate to reproduce the relevant contents of the order dated 29.05.2025, contained in Memo No. 818 (Annexure R/2 to the counter affidavit filed on behalf of respondent nos. 2 to 6), which read as follows:

> ‘‘अतः माननीय उच्च न्यायालय द्वारा सी॰डब्लू॰जे॰सी॰ सं॰ 7998/08 (नागेन्द्र नाथ पाण्डेय एवं अन्य बनाम राज्य सरकार एवं अन्य), सी॰डब्लू॰जे॰सी॰ सं॰ 7736/08 (रामजी पाण्डेय एवं बनाम राज्य सरकार एवं अन्य), सी॰डब्लू॰जे॰सी॰ सं॰ 7360/08 (श्याम बिहारी चौबे एवं अन्य बनाम राज्य सरकार एवं अन्य) तथा सी॰डब्लू॰जे॰सी॰ सं॰ 9727/08 (विनोद कुमार चौबे एवं अन्य बनाम राज्य सरकार एवं अन्य) में माननीय उच्च न्यायालय द्वारा दिनांक 24.11.2015 को समेकित रूप में पारित न्यायादेश एवं वित्त विभागीय परामर्श के आलोक में उक्त वादों के याचिकाकर्त्ताओ को बर्खास्ती अवधि की तिथि 29.08.2003 (जिस दिन सेवा से हटाया गया) से उनके सेवा में पुनः समायोजन की तिथि तक की अवधि को निरंतर सेवा मानते हुए वेतन का निर्धारण एवं उक्त अवधि की गणना सेवांतलाभ आदि के लिए अनुमान्य होगी परन्तु उक्त अवधि के लिए

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वेतन (Back Wages) देय नहीं होगा।

विभागीय आदेश संख्या –167 (आ॰चि॰) दिनांक– 09.02.2018 एवं शुद्धि पत्र आदेश संख्या –667 (आ॰चि॰) दिनांकः– 22.05.2018 इस हद तक संशोधित समझा जाय।……...

7. In view of the operative portion of the aforesaid memo, the present writ petition stands disposed of with a direction to respondent no. 2, namely, the Secretary, Health Department, Government of Bihar, Patna, to implement the order dated 29.05.2025, contained in Memo No. 818 (Annexure R/2 to the counter affidavit filed on behalf of respondent nos. 2 to 6), within a period of sixty days from the date of receipt or production of a copy of this order before him.

8. In the event of non-compliance with the aforesaid direction within the stipulated period, respondent no. 2 shall be liable to face appropriate proceedings in accordance with law.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	28/10/2026
Transmission Date	NA

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