

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3381 of 2020

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Birendra Prasad Gupta son of Late Shital Prasad, resident of Flat No. - 104,
Orchid Residency, Near Ara Garden, Jagdeo Path, District- Patna (Bihar), PIN
- 800019.

... .. Petitioner/s

Versus

1. State of Bihar through District Magistrate cum chairman, District Selection Committee, District Establishment Department, Patna.
2. Deputy Collector Establishment cum Member, District Selection Committee, District Establishment Department, Patna.
3. Civil Surgeon cum Chief Medical Officer, Patna.
4. Deputy Superintendant, Gardanibagh Hospital, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sudhanshu Prakash, Advocate
For the Respondent/s : Mr. Braj Bhushan Mishra, AC to AAG-9

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CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL ORDER

3 10-03-2026 Heard learned counsel for the parties.

2. This writ petition has been filed by the petitioner seeking a direction to the respondent authorities to pay arrears of monthly honorarium for the period of one year from March, 2019 in terms of Memo No. 897/Establishment, Patna (Annexure-11) dated 05.07.2019, issued by the Deputy Collector, Patna, whereby the petitioner's services were extended.

3. It is the case of the petitioner that the petitioner has worked as Pharmacist at Gardanibagh Hospital, Patna in terms of Memo No. 897/Establishment, Patna (Annexure-11) dated



05.07.2019, issued by the Deputy Collector, Patna, whereby his contract of employment as Pharmacist was extended for a period of one year from March, 2019.

4. The petitioner in support of his case has stated thus in paragraph nos. 17, 18 and 19 of the writ petition, which is extracted hereinbelow:-

“17. That in pursuance of District Selection Committee meeting held on 24/06/2019 under the Chairmanship of District Magistrate- cum- Chairman, District Selection Committee, Patna recommended for extension of period of employment of petitioner for 01 (one) year from the ending of contractual employment date March 2019 by letter issued vide memo no. 897/Establishment, Patna, dated 05/07/19 issued by Establishment Deputy Collector, Patna. Petitioner's name appears in the letter at Sl. No. 1 (Sri Birendra Prasad Gupta, Pharmacist, Retired Contractual Re-appointed Gardanibagh Hospital Patna).

18. That in compliance of letter issued vide memo no. 897/Establishment, Patna, dated 05/07/19 issued by Establishment Deputy Collector, Patna, the petitioner submitted his joining on 08/07/19 at his original place of joining, i.e., before In-charge Medical Officer, 'New Gardanibagh Hospital Patna 06C.', later on the same day, i.e., on 08/07/19 the petitioner submitted his joining at his working place, i.e., before Deputy Superintendant, 'Gardanibagh Hospital, Patna' and petitioner's joining was accepted at 'Gardanibagh Hospital, Patna.



19. That the petitioner was working at Gardanibagh Hospital, Patna and an attendance detail of petitioner from 08/07/19 to 31/07/19 was issued vide letter no. 1758 / Patna dated 22/08/19 by the Deputy Superintendant, Gardanibagh Hospital, Patna showing that the petitioner never absented from his duty.”

5. Perusal of the averments made in paragraph nos. 17, 18 and 19 of the writ petition, it appears that pursuant to District Selection Committee meeting held on 24.06.2019 under the Chairmanship of District Magistrate-cum-Chairman, District Selection Committee, Patna, the petitioner’s services as pharmacist was extended for a period of one year from March, 2019, vide Memo No. 897/Establishment, Patna (Annexure-11) dated 05.07.2019, issued by the Deputy Collector, Patna, In pursuance thereto, it appears that the petitioner joined at his place of posting at Gardanibagh Hospital, Patna and attended his duty as pharmacist, which has also been certified by the Deputy Superintendent, Gardanibagh Hospital, Patna vide letter no. 1758/Patna dated 22.08.2019 (Annexure-13).

6. Though, this writ petition was filed in the year 2020, the respondent-State has not filed any counter affidavit denying the contentions made by the petitioner in the writ petition.



7. Under the circumstances, since reasonable amount of time (six years) has elapsed since filing of the writ petition in the year 2020, it appears that the State respondents have nothing to say in the case denying/controverting the contentions made by the petitioner that the petitioner has worked as Pharmacist in terms of Memo No. 897/Establishment, Patna (Annexure-11) dated 05.07.2019, issued by the Deputy Collector, Patna, for one year from March, 2019 at Gardanibagh Hospital.

8. Accordingly, averments made by the petitioner in the writ petition, as extracted above, is presumed to be true by invoking the doctrine of non-traverse.

9. The aforementioned Memo No. 897/Establishment, Patna (Annexure-11), dated 05.07.2019, issued by the Deputy Collector, Patna, does not indicate as to how much honorarium the petitioner would be entitled to in a month or for the period under mentioned.

10. In view of the above, if the petitioner has worked as Pharmacist at the hospital for the period as discussed hereinabove, there is no justifiable reason as to why honorarium that may be entitled to the petitioner, should not be paid to him. Since how much honorarium the petitioner is entitled to receive, has not been indicated in Memo No. 897/Establishment, Patna



(Annexure-11) dated 05.07.2019, issued by the Deputy Collector, Patna, nor has the petitioner made any claim specifying the exact amount of honorarium that he is entitled to, this writ petition shall stand disposed off with a direction to the respondent authorities to pay honorarium to the petitioner that he may be entitled to, for one year from March, 2019 in terms of Memo No. 897/Establishment, Patna (Annexure-11) dated 05.07.2019, issued by the Deputy Collector, Patna.

11. The payment as directed above, shall be made within one month from the date of receipt/production of a copy of this order.

(Nani Tagia, J)

Amrendra/-

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