

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7210 of 2025

1. Prabha Kumari wife of Ashok Kumar, resident of At- Keonrha, P.O-Barni, P.S-Dhanarua, Dist- Patna.
2. Rajesh Kumar son of late Shiv Balak Mishra resident of At and post-Purani Barh, P.S-Barh, Dist-Patna.
3. Shailesh Kumar son of late Rajendra Prasad Sharma, resident of Village-Madhusudan Colony, Road No.-7, Ghughari Tand, P.S-Bishnupad, Dist-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Additional Chief Secretary, Finance Department, Govt. of Bihar, Patna.
4. The Secretary, Health Department, Govt. of Bihar, Patna.
5. The Special Secretary, Health Department, Bihar, Patna.
6. The Managing Director, Bihar Medical Services and Infrastructure Corporation Ltd., Health Department, Bihar, Patna.
7. The Director-in-Chief (Nideshak Pramukh) Disease Control, Public Health and Para Medical, Health Services, Bihar Patna.
8. The Additional Director-Cum-State Programme Officer, Vector Born Disease Control Chief Malaria Officer, Bihar, Patna.
9. The Additional Chief Medical Officer, Govt. of Bihar, District- Gaya.
10. Civil Surgeon-cum-Chief Medical Officer, Gaya

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Siyaram Pandey, Advocate
For the Respondent/s	:	Mr. Additional Advocate General (5)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 12-05-2026

Heard learned counsel for the petitioners and
learned counsel for the State.



2. Learned counsel for the petitioners submit that the present writ petition has been filed for quashing/set aside the letter issued by the Director in Chief (Disease Control, Public Health and Para Medical) Health Services, Bihar, Patna dated 12.03.2025 (Annexure-P/10), by which the petitioners are aggrieved. He submits that the petitioners are the appointee on the compassionate ground and working in the department since 1993-94 and by the said letter, their further promotion has been completely blocked. Counsel submits that every employee has a legitimate expectation that with the span of time and as per the service jurisprudence, atleast promotion be given to them. He further submits that by issuance of the said letter dated 12.03.2025, their promotion have completely blocked. Therefore, the petitioners have challenged the said letter dated 12.03.2025 before this Hon'ble Court.

3. Learned counsel for the State, on the other hand, submits that the said letter dated 12.03.2025 has been issued not as a stigmatic decision, rather, as a policy matter in compliance of the Circular issued by the General Administrative Department dated 05.10.1991 contained in Memo No. 3/सी 2-2067/90 का 13293 and in compliance of Clause 9(क) of the said circular under which the petitioners were appointed. He further submits



that ignoring the said circular and accepting the pleading of the petitioners shall amount to grant of second benefit on the basis of compassionate appointment which is not permissible in law.

4. In the light of the submissions made by the parties, it transpires to this court that Clause 8 & 9(क) of the Circular dated 05.10.1991 contained in Memo No. 3/सी 2-2067/90 का० 13293 (Annexure-P/4) are very much categorical which states as follows:-

“8. किन पदों पर नियुक्ति की जा सकती है :-

(क) अबतक के निर्देशों के अनुसार अनुकम्पा के आधार पर वर्ग-4 के अतिरिक्त वर्ग-3 के वैसे पदों पर नियुक्ति की जा सकती थी जिनपर नियुक्ति बिहार लोक सेवा आयोग/बिहार राज्य अवर सेवा चयन पर्षद के माध्यम से नहीं होती हो।

उपर्युक्त नियम को संशोधित करते हुए सरकार ने निर्णय लिया है कि निम्नलिखित पदों पर अनुकम्पा के आधार पर नियुक्ति की जा सकती है।

(i) वर्ग 4 के सभी पद।

(ii) 1200-1800 तक के वेतनमान के वर्ग-3 के सभी पद।



9. विशेष निर्देश :

(क) अनुकम्पा के आधार पर किसी पद पर नियुक्ति होने पर पुनः उसे अनुकम्पा का दोबारा लाभ देते हुए उसकी प्रोन्नति अथवा सम्बर्ग परिवर्तन नहीं किया जा सकेगा।”

5. This court upon perusal of the above mentioned Clause 8 & 9(क) is of the firm view that appointment of the petitioners has been made on compassionate ground by following the said circular dated 05.10.1991 contained in Memo No. 3/सी 2-2067/90 का० 13293. This court is of the opinion that the impugned order dated 12.03.2025 (Annexure-P/10) has been passed completely in accordance with law and there is no need of any interference.

6. However, considering the service jurisprudence, the promotion ought to be granted to an employee after doing a considerable length of service. In this regard, with reference to Annexure-P/9 dated 17.10.2023 contained in Memo No. 1531(12), annexed herewith, liberty is granted to the petitioners to file their representation along with a copy of this order before the Director-in-Chief (Nideshak Pramukh), Disease Control, Public Health and Para Medical, Health Services, Bihar, Patna



(Respondent No. 7), within 30 days. The Respondent No. 7 shall consider the petitioners’ representation and if it is found that the petitioners’ case falls within the purview of the said letter dated 17.10.2023 (Annexure-P/9), then their case shall be considered accordingly. If not, the Respondent No. 7 shall pass a reasoned and speaking order within 90 days from the date of receipt/production of a copy of this order.

7. Accordingly, this writ petition stands dismissed with the aforesaid observation.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	13/05/2026
Transmission Date	NA

