

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.265 of 2022

1. Arjun Kumar Son of Late Hira Lal Resident of Gavtal Danapur, P.S. Danapur, District- Patna.
2. Ranjit Kumar Son of Late Mahesh Prasad Resident of Village- Ekangarsarai, P.S. Ekangarsarai, District- Nalanda.
3. Amarendra Kumar Son of Late Krishna Prasad Resident of Saraswati Niwas Yarpur, P.S. Gardanibagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director-in-Chief, Department of Health, Government of Bihar, Patna.
3. The District Magistrate-cum-Chairman, District Compassionate Appointment Committee, Patna.
4. The District Provident Fund Officer, Patna.
5. The Director Public Health Institute, Ashok Raj Path, Patna.
6. The Superintendent, Nalanda Medical College and Hospital, Patna.
7. The Civil Surgeon-cum-Chief Medical Officer, Patna.
8. The Additional Chief Medical Officer, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr. Rajeshwar Singh (GA-10)
Mr. Jitendra Kumar, AC to GA-10

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-01-2026

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

2. The present writ petition has been filed by the petitioners for issuance of mandamus directing the respondents to extend the benefits of old pension scheme to the petitioners in



place of new pension scheme since other candidates who have been recommended along with the petitioners by District Compassionate Appointment Committee are getting the benefits of old pension scheme.

3. Learned Counsel for the petitioners submits that petitioner No.1 was appointed on Class-III post on compassionate ground through letter No.4789 dated 16.05.2006 and presently posted as Clerk at Public Health Institute Ashok Raj Path, Patna, petitioner No.2 was appointed as Ward Attendant on compassionate ground at Nalanda Medical College Hospital through letter No.1315 dated 10.07.2006 and presently posted as Clerk at Nalanda Medical College and Hospital, Patna and petitioner No.3 was appointed on Class-IV post in the office of Civil Surgeon-cum-Chief Medical Officer, Patna, through letter No.4794 dated 16.05.2006 and presently posted as Grade-IV employee in the office of Additional Chief Medical Officer, Patna. Counsel for the petitioners submits that meeting of District Compassionate Appointment Committee, Patna, was held on 11.06.2001 under the Chairmanship of District Compassionate Appointment Committee and names of petitioner Nos.1 and 2 were considered and recommended for appointment on compassionate ground. In the said meeting along with other



total 155 candidates were recommended, in which petitioner Nos.1 and 2 were at serial Nos.37 and 111 in the recommendation list. Counsel also submits that petitioner No.3 was also considered by District Compassionate Appointment Committee in a meeting held on 03.09.2002 and in the said meeting the names of total 171 candidates were recommended for appointment on compassionate ground in which petitioner No.3 was figured at serial No.153 in the recommendation list dated 01.10.2002.

4. Learned Counsel for the petitioners further submits that in the counter affidavit it has come that due to administrative reasons appointment of the petitioners could not be made within time; whereas those persons who were recommended by the same committee had joined and getting the benefit of Old Pension Scheme. Learned Counsel for the petitioners further submits that by virtue of supplementary affidavit he has annexed a resolution contained in Memo No.1206(P) dated 28.11.2023, in which Finance Department, Government of Bihar, has issued specific opportunity to those persons who were appointed through same advertisement prior to 01.09.2005, but some of the persons have been granted Old Pension Scheme and some of the persons granted New Pension



Scheme then in that case option has been demanded from those persons who have been appointed later. Learned Counsel for the petitioners submits that in the light of the said resolution issued by the Finance Department dated 28.11.2023, all the three petitioners are entitled for grant of old pension scheme.

5. Learned Counsel for the State, on the other hand, submits that from the pleading made by the petitioners that they were appointed after 01.09.2005, the day on which new pension scheme has been impleaded. Therefore, he submits that since their appointment has been made after 01.09.2005. Hence, they are entitled for New Pension Scheme only, and hence, according to him, is not entitled for any relief as prayed.

6. After hearing the parties, it transpires to this Court that it is admitted fact that all the three petitioners were appointed after 01.09.2005, but due to the resolution made by the Finance Department dated 28.11.2023 in Memo No.1206(P), the situation has completely changed and in this regard the option has to be taken from the petitioners that whether they are interested for Old Pension Scheme or New Pension Scheme. From the pleadings of the State, it is not clear that whether this opportunity has been granted to the petitioners or not? According to the Circular of the Finance Department, the



respondent authorities are bound to take option from the petitioners.

7. In this background, this writ petition is disposed off directing respondent No.2, the Director-in-Chief, Department of Health, Government of Bihar, Patna, to take option in the light of the Finance Department's Resolution dated 28.11.2023 from the petitioners within 90 days from the date of receipt/production of a copy of this order and he is directed to follow the said resolution completely in accordance with law after taking option from them.

(Dr. Anshuman, J)

Mkr./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.01.2026
Transmission Date	

