

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8800 of 2016

1. Bihar Pradesh Pharmacy Teachers' Association, Agamkuan, Patna through its President, Bindeshwar Nayak, Son of late Sukdeb Nayak resident of Village+Post Saharghat, P.S. Saharghat, District Madhubani, Presently residing at Shankar Apartment Flat No. 403, East Boring Canal Road, PS Budha Colony District Patna.
2. Bindeshwar Nayak Son of late Sukdeb Nayak, Resident of Village+Post Saharghat, P.S. Saharghat, District Madhubani, Presently residing at Shankar Apartment Flat No. 403, East Boring Canal Road, P.S. Budha Colony District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Health, Govt. of Bihar, Patna.
4. The Joint Secretary, Department of Health Govt of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajendra Narain, Sr. Advocate
Mr. Anju Kumari, Advocate
Mr. Annapurna Sinha, Advocate
Mr. Anant Kumar Sinha, Advocate
For the Respondent/s : Mr. Shudhanshu Bhushan, AC to GP-7

CORAM: HONOURABLE MR. JUSTICE NANI TAGIA
ORAL JUDGMENT

Date : 20-11-2024

Heard learned counsel for the parties.

2. The Bihar Pradesh Pharmacy Teachers Association, Agamkuan, Patna has filed this writ petition seeking a direction to the respondents to extend the age of superannuation of the regular teachers of the Government Pharmacy Institute, Agamkuan, Patna from 65 years to 67 years by amending the Bihar Service Code.



3. The petitioners contend that the Pharmacy Education has been deemed to be included in Medical Education by the Bihar Medical Education Institution (Regulation & Control) (Amendment) Act, 1993. The petitioners further contend that by various amendments made in the Bihar Service Code, the State authorities have increased the retirement age of the doctors and teachers of Ayush, teachers and officers of Bihar Dental Service; doctors of Bihar Employees State Insurance Medical Services; Physiotherapist and Occupational Therapist (including Teaching Cadre) and the doctors of Bihar Health Service and Bihar Medical Education Service from 65 years to 67 years.

4. The petitioners have also drawn the attention of this Court to the proceeding in the legislature of the State of Bihar as recorded in Rec:- 17/Q1-31/2016-807(17) dated 24.11.2016 issued by the Joint Secretary to the Health Department, Government of Bihar, whereby the Government has issued a statement in the Bihar legislation that increase in the retirement age of regular teachers of Government Pharmacy Institute, Patna from 65 years to 67 years is under consideration.

5. The petitioners finally contend that despite the retirement age of various posts, as enumerated hereinabove,



have been increased by the Government from 65 years to 67 years, the petitioners' retirement age though was increased from 62 years to 65 years vide amendment made in the year 2013, the petitioners' retirement age has not been increased to 67 years as has been done by the Government in respect of the other posts discussed hereinabove.

6. The respondent no.3 has filed a counter affidavit, wherein, it has been contended that to increase the retirement age of an employee is a policy decision of the Government and therefore, the petitioners, as a matter of right, cannot claim increase in the retirement age by way of an amendment in the Rules.

7. Upon hearing the learned counsel for the parties and on perusal of the materials on record, I find that the increase in retirement age of the petitioners from 65 years to 67 years would require an amendment in the Bihar Service Code by the competent authorities.

8. In view of the settled position of law that this Court, in exercise of power under Article 226 of the Constitution of India, does not have the power to direct the State to make or amend the Rule, I propose to dispose off this writ petition leaving it open for consideration by the respondent



authorities in its wisdom to increase the retirement age of the petitioners from 65 years to 67 years as have been done in the cases of other posts in the Health Department which have been highlighted hereinabove and also in the light of the statement made by the Government in the legislature as recorded by the Joint Secretary to the Health Department, Government of Bihar vide Rec:- 17/Q1-31/2016-807(17) dated 24.11.2016.

9. The writ petition is disposed off with the above observation.

(Nani Tagia, J)

Nilmani/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.11.2024
Transmission Date	N/A

