

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.638 of 2021

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DR. Nishanta Bharati aged about 34 years (Gender – Male) S/o Sri Rajendra Prasad Resident of Village-Brahmachari, P.S.-Kahalgau, District-Bhagalpur At Present Posted As Junior Resident, Government Medical College, Bettiah, District-West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Genral Administration Department, Govt. of Bihar, Patna.
3. The Bihar Technical Service Commission thorough its Secretary, Govt. of Bihar, Patna.
4. The Dy. Secretary, Bihar Technical Service Commision, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Madhu Prasun
: Ms. Renu Kumar

For the Respondent/s : Mr. S. D. Yadav, AAG 9

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 17-01-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

2. Learned counsel for the petitioner is hereby directed to furnish copy of the writ petition to the learned counsel for the State-Commission.



3. In the instant petition, petitioner has prayed for the following relief/reliefs:

“(i) **FOR** issuance of appropriate Writ/Writs, Order/Orders, Direction/Directions commanding the Respondents to select the Petitioner for appointment on the post of General Medical Officer against advertisement being Advertisement No. 16/2019 issued by the Bihar Technical Service Commission on 08/08/2019 on the requisition of the General Administration Department, Govt. of Bihar vide its Letter No. - 10725 dated 05/08/2019, whereby, the Petitioner was not selected for appointment only for the reason that five marks was not added as per the advertisement for his whole one year work experience in central government hospital, which is illegal, arbitrary and out rightly against the terms of the said advertisement.

(ii) **FOR** issuance of appropriate Writ/Writs, Order/Orders, Direction/Directions commanding the Respondents to appoint the Petitioner giving him service and all consequential monetary benefits from the date he was eligible for such appointment and maintaining his seniority from the said date.

(iii) **FOR** any other relief/reliefs for which the Petitioner is entitled under law.”

4. In the absence of establishing legal/statutory right followed by demand before the competent authority, petitioner is not entitled to writ of Mandamus in the light of Apex Court decision in the case of *Mani Subrat Jain V. State of Haryana* reported in (1977) 1 SCC 486.

5. Accordingly, writ petition stands disposed off as not maintainable.

6. The present order would not come in the way of submitting a detailed representation to the competent authority



within a period of eight weeks from the date of receipt of this order. The competent authority is hereby directed to examine the grievance of the petitioner at the earliest.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	
Uploading Date	24.01.2022
Transmission Date	

