

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1987 of 2015

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1. Dr. Shaheen Khatoon D/o Late Shaique Ahmed, R/o Samanpura Madarsa Gali,
P.S. - Shastri Nagar, District - Patna.

.... Petitioner/s

Versus

1. The Union of India through Secretary, Department of AYUSH, New Delhi.
2. Director General, Central Council for Research in Unani Medicine (CCRUM),
Ministry of Health and Family Welfare, Department of AYUSH, Jawaharlal Nehru
AYUSH, Anusandhan Bhawan 61-65 institutional area, Opposite - D Block,
Janakpuri, New Delhi - 110058.
3. Deputy Director Incharge, Regional Research Institute of Unani Medicine
(RRIUM), Gujri, Patna City, Patna-800008

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr M.K.Mishra, Sr. Advocate
Mr Prabhaker Dwivedi
Mr. Radha Mohan Pathak
For the Union of India : Mr Rajesh Kumar Verma, CGC
For Respondents 2&3 : Mr Abhi Sarkar

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 13-05-2015

Annexure- 9, dated 3.11.2014 is under challenge in the present writ application. By virtue of this office order, petitioner's assignment as a Senior Research Fellow (Unani) at Regional Research Institute of Unani Medicine at Patna has been terminated with immediate effect. Petitioner, therefore, wants quashing of the said order on many a grounds.

Some of the grounds enumerated by learned senior counsel for the petitioner are that a reading of the order impugned would indicate that there are many allegations and insinuations made



against the petitioner with regard to performance of her duty. This order has been passed without giving any opportunity of hearing or notice to the petitioner, therefore, violates the principles of natural justice. The respondents have violated their own terms and conditions of appointment, which would be evident from reading of Annexure- 5, dated 15.10.2009. Clause (7) of the said appointment letter/ memorandum itself indicates that the appointment will be governed by the provisions of the CCS (Conduct) Rules and the CCS (Classification, Control and Appeal) Rules as amended from time to time by the Government of India. Clause (8) also indicates that other terms and conditions of the service will be governed by the rules and instructions applicable to similar category of personnel under the Government of India. If these two clauses are read together in the memorandum of appointment of the petitioner, the petitioner's engagement even though is said to be contractual but her status is raised to a different level from a formal contractual engagement simpliciter. It can be a quasi contractual appointment since the petitioner is bound by the rules, which have been talked about in clause (7) and (8).

If this be so then the petitioner has surely made out a case for interference with Annexure- 9. There is no indication by the respondents as to why such recourse would not be taken especially

when the order contained in Annexure- 9 is a stigma against the petitioner and relates to her performance/ non-performance of her responsibility of the post on which she was selected and appointed initially in the year 2009 and comes within the provisions of CCS (Conduct) Rules etc.

The respondents are an organization under Union of India, especially Ministry of Health and Family Welfare, which cannot be allowed to work contrary to law and rules. The decision, therefore, is required to be interfered with. Annexure- 9, dated 3.11.2014 is quashed.

Writ application is allowed.

Preliminary objection taken by the counsel for the respondents that the remedy of the petitioner will be to move Central Administrative Tribunal is a fallacy in view of the status of the present petitioner.

(Ajay Kumar Tripathi, J)

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