

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12430 of 2014

=====

Smt. Jayanti Kumari W/o Shri Shambhu Prasad R/o Village + Post Baha Chouki, P.S. Dharhara, District Munger.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Health Department, Government of Bihar, Patna.
3. The Civil Surgeon-cum-Chief Medical Officer, Lakhisarai.
4. The Incharge Medical Officer, Surajgarha, Lakhisarai.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Naresh Prasad, Adv.
For the Respondent/s : Mr. U.S.S.Singh, GP1

=====

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 16-07-2015 Heard learned counsel for the parties.

Having regard to the fact that the petitioner, holding the post of ANM, has a grievance that her transfer is illegal from the place where she has been working for more than last thirteen years only on the ground that the allegation made against her was not correct, this Court must hold the present writ application to be both ill-advised as also misconceived.

It is not denied that the petitioner is holding a transferable post and there is also not in dispute that the petitioner has continued on the said place of posting for 13 years and, therefore, when she has also not been subjected to any punishment and only an order of transfer has been issued, she cannot make out



a case for interference by this Court, inasmuch as, exercise of power under Section 226 of the Constitution of India in the matter of transfer, which is an exigency of service, can be interfered by this Court in exercise of its power under Article 226 of the Constitution of India, only under two circumstances, namely, if the transfer is in violation of the Rule and/or is malafide. This Court however does not find existence of either of the aforesaid two grounds in this case.

This application, thus, is wholly misconceived and is, accordingly, dismissed with an observation that if the petitioner has not joined at her transferred place of posting in a space of almost one year from the date of impugned order of transfer, she has already become liable for being subjected to disciplinary action for violating the order of the competent authority.

Let a copy of this order be sent to Civil Surgeon, Lakhisarai for taking appropriate action against the petitioner strictly in accordance with law.

(Mihir Kumar Jha, J)

Rishi/-

U			
---	--	--	--