

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11051 of 2014

Dr. Shiv Shankar Prasad, S/o Late Dr. Ram Lakhan Prasad Lal, R/o Nageshwar Sadan, Road No.- 10A, Rajendra Nagar, District- Patna

... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Department, Government of Bihar, Patna
3. The Secretary, Health Department, Government of Bihar, Patna
4. The Joint Secretary, Health Department, Government of Bihar, Patna
5. The Superintendent, P.M.C.H., Patna
6. The Principal, P.M.C., Patna

.... Respondent/s

Appearance :

For the Petitioner/s : Mr Shailendra Kumar Sinha
Mr Surendra Kumar Singh
Mrs. Sudha Chandra
For the Respondent/s : Mr. Md. Raisul Haque, SC 4
Mr K.K.Singh, AC to SC 4

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 29-01-2015

After all the arguments made and the points raised while challenging Annexure- 11, which is an order of transfer of the petitioner, petitioner has not succeeded in making out a case that he belongs to the teaching cadre, therefore, cannot be transferred under a Civil Surgeon or that the decision contained in Annexure- 11 is out of motive and in clear breach of any rules and regulations. One ground, however, he has succeeded in making out is that he has been posted at PMCH for 17 years and surely he has developed some kind of fondness as well as an inference to continue till he superannuates from the post but such expectation of the petitioner does not have any sanction of law. 17 long years of posting in a place is a good enough

administrative ground for transfer of the petitioner, who is basically a Medical Officer and not a tutor as was sought to be made out.

Counsel for the petitioner, however, submits that the petitioner is in last legs of service. He has about three years left. His wife is posted at Patna. Therefore, a sympathetic view may be taken. For that a fresh consideration is required to be made for which petitioner may have liberty to file an application for consideration. But this Court is not inclined to interfere with the order contained in Annexure- 11 because the transfer order does not suffer from any infirmity.

However, if an application is filed, the authorities will consider the same on its own merit and decide within a period of six weeks thereof. Petitioner, however, must go and join his post of transfer irrespective of the final order, which may emerge on his application before the Principal Secretary, Department of Health, Government of Bihar.

Writ is disposed of with the above direction.

(Ajay Kumar Tripathi, J)

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