

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2299 of 2011

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Neelam Kumari W/O Samsher Bahadur Singh Deputy Health Centre,
Sandhila, P.S. Buxar, Dist. Buxar.

.... Petitioners

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Govt. of Bihar, Patna.
2. Civil Surgeon cum Chief Medical Officer, Buxar.
3. District Magistrate, Buxar.
4. District Programme Officer, Buxar.
5. Incharge Medical Officer, Health Centre Sandhila, Dist. Buxar.

.... Respondents

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Appearance :

For the Petitioners : Mr. Pramod Kumar, Adv.

For the Respondents : Mr. S.S. Shabbar Hussain Gp4

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CORAM: HONOURABLE THE CHIEF JUSTICE
ORAL ORDER

5 20-03-2015 The petitioner is an Auxiliary Nurse and Midwife (in short A.N.M.) in the Bihar Medical Service, Health Department. She has been placed under suspension through order dated 28.1.2010, by the disciplinary authority. Challenging the same, the petitioner filed C.W.J.C. No.5933 of 2010. This Court disposed of the writ petition through order dated 2.11.2010 directing that in case the petitioner is not paid the subsistence allowance and charges are not framed within time, the suspension shall stand revoked. It was further ordered that the departmental proceedings, if initiated, it has to be concluded preferably within six

months.

Complaining that the conditions imposed by this Court in its order in C.W.J.C. No.5933/10 were not complied with, and the order of suspension stood revoked, the respondents are continuing her under suspension the petitioner filed the writ petition.

During the pendency of the writ petition, the disciplinary proceedings were concluded with the imposition of penalty of stoppage of one increment with cumulative effect through order dated 1.2.2011. I.A. No.3660 of 2011 was filed with a prayer to permit the petitioner to amend the prayer in the writ petition, to incorporate the challenge to the order of punishment. The respondents filed a detailed counter affidavit opposing the same.

Heard Shri Pramod Kumar, learned counsel for the petitioner and Shri Shabbar Hussain for the respondents.

The challenge in the writ petition is to the order of suspension, that too, on the ground that the order of suspension stood revoked on account of non-compliance with the conditions imposed by this Court. Whatever may have been the basis for the filing of the

writ petition, the grievance of the petitioner, vis-à-vis the order of suspension, ceased with the passing of the final orders in the disciplinary proceedings. Though an I.A. is filed with a prayer to permit her to challenge the order of punishment, this Court is not inclined to accede to the request. The reason is that the petitioner has to urge independent and separate grounds for challenging the order of punishment. The proceedings initiated against a subsidiary order, namely, an order of suspension, cannot constitute the avenue or the forum for challenging the main order of punishment.

The writ petition is disposed of, leaving it open for the petitioner to pursue her remedies against the order of punishment in accordance with law.

Interlocutory application, if any, stands disposed of.

There shall be no order as to costs.

(L. Narasimha Reddy,CJ)

K.C.jha/-
N.A.F.R.

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