

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5002 of 2015

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Pankaj Kumar Sinha, S/o- Late Arun Kumar, R/o- Mohalla- Maranpur, Near Devi
Asthan, Post-Chand Chaura, P.S.- Civil Lines, District- Gaya.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Health and Family Welfare Department.
3. Director in Chief, Health Service, Government of Bihar, Patna.
4. Civil Surgeon-cum-Chief Medical Officer, Gaya.
5. In- charge Medical Officer, Primary Health Centre, Dumaria, Gaya.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Ojha

For the Respondent/s : Mr. Ram Balak Mahto

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 11-05-2015

11.05.2015

Heard learned counsel for the parties.

Petitioner is a Class-III employee of the Department of Health. He was posted at Primary Health Centre, Dumaria in the district of Gaya. Vide Order, dated 15.03.2015, contained in Annexure-1, he has been transferred from Dumaria Primary Health Centre to Naudiha Additional Primary Health Centre. Petitioner is assailing the said order of transfer on the ground that the reason for such transfer is untenable, because it has been passed at the instance of the Speaker of the Bihar Vidhan Sabha as well as the Health Minister of Government of Bihar.

It is the stand of the petitioner that such



transfers cannot be given effect to, because the transfer order is punitive in nature. The authorities have surrendered their wisdom to the dictates of the Speaker and the Health Minister. Against the order of transfer, petitioner has also filed representation, contained in Annexure-2, before the Director-in-Chief, Health Services, Government of Bihar.

There is a difference between a transfer at the instance of an elected representative and transfer on complaint made by an elected representative. Even if the order of transfer, contained in Annexure-1, is taken on the face value, it is evident that the Speaker as well as the Health Minister was on a visit-cum-inspection of the facility, which falls in that area. The petitioner was missing at the time of inspection and the meeting which was held. He has an explanation as to why he was not present, but since such a visit or inspection was not a sudden one and there was prior information, there was obligation upon the petitioner to make himself available. Petitioner was well aware and for reasons best known to him, absented himself, because his work and conscious does not seem to be clean.

A counter affidavit has been filed on behalf of respondents. The detail of the conduct of the petitioner is

evident from reading of paragraph nos. 6 to 8.

In addition to that, the Court is informed that the petitioner is posted in his present capacity since the year 2011. Even otherwise in normal course of things, his transfer was due. If there is inefficiency, if not deficiency, in performance of public duty, then an elected representative, be it the Speaker or the Minister of the Department, have every right to bring to the notice of the conduct of such employees to the controlling authority and if they feel that in the interest of administration a man is required to be transferred, then it cannot be said to be a case of exercise of power for extraneous reasons. The facts are speaking. The omission of the petitioner seems to be serious. It was, therefore, in the interest of things that the petitioner was transferred to a yet another place for proper and efficient functioning of the primary health centre.

Writ application, therefore, is required to be dismissed. It is dismissed.

(Ajay Kumar Tripathi, J.)

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