

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.999 of 2015

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Renu Kumari W/o Sri Radhey Shyam Singh R/o Village - Govind Piltaunjhiya, P.S.
- Runni Saidpur, District - Sitamarhi, At present working as A.N.M. , Primary
Health Centre Supi, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Bihar, Patna.
3. The Regional Deputy Director, Health, Tirhut Division, Muzaffarpur.
4. The Civil Surgeon-cum-Chief Medical Officer, Sitamarhi.
5. The In-charge Medical Officer, Primary Health Centre, Suppi, District -
Sitamarhi.
6. The In-Charge Medical Officer, Primary Health Centre, Runnisaidpur.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 1380 of 2015

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Indu Kumari, W/o Shambhu Kumar Singh, R/o Village Morsand, P.S.
Runnisaidpur, Dist. Sitamarhi, at present posted as A.N.M., Primary Health Centre,
Dumra, Dist. Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Bihar, Patna.
3. The Regional Deputy Director, Health, Tirhut Division, Muzaffarpur.
4. The Civil Surgeon-cum-Chief Medical Officer, Sitamarhi.
5. The In-charge Medical Officer, Primary Health Centre, Dumara, Dist.
Sitamarhi.
6. The In-charge Medical Officer, Primary Health Centre, Runni Saidpur.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 1420 of 2015

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Smt. Shashi Kala Devi W/o Uma Shankar Prasad, R/o Mata Marg Road,
Bhabdepur, Ward No. 19, P.S- Bhabdepur, Thumha, P.S Runnisaidpur, District-
Sitamarhi, At present posted as A.N.M., Primary Health Centre , Bathnaha, District
- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Bihar, Patna.
3. The Regional Deputy Director, Health , Tirhut Division, Muzaffarpur.

4. That Civil Surgeon-cum-Chief Medical Officer, Sitamarhi.
5. The In-charge Medical Officer, Primary Health Centre, Bathnaha , District-Sitamarhi.
6. The In-charge Medical Officer, Primary Health Centre, Dumara Saidpur.

.... Respondent/s

with

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Civil Writ Jurisdiction Case No. 1823 of 2015

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Sumitra Devi Wife of Ramadhar Choudhary R/o Village - Thumha, P.S-Runnisaipur, District Sitamarhi, At present Posted as A.N.M., Primary Health Centre, Barganiya, District - Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Health Bihar, Patna.
3. The Regional Deputy Director, Health, Tirhut Division, Muzaffapur.
4. The Civil Surgeon-cum-Chief Medical Officer, Sitamarhi.
5. The In-charge Medical Officer, Primary Health Centre, Bairganiya, District - Sitamarhi.
6. The In-charge Medical Officer, Primary Health Centre, Runni Saidpur.

.... Respondent/s

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Appearance :

(In CWJC No. 999 of 2015)

For the Petitioner/s : Mr. Santosh Kumar Sinha

For the Respondent/s : Mr. Pandey S Sahay

(In CWJC No. 1380 of 2015)

For the Petitioner/s : Mr. Santosh Kumar Sinha

For the Respondent/s : Mr. Avinash Kumar

(In CWJC No. 1420 of 2015)

For the Petitioner/s : Mr. Santosh Kumar Sinha

For the Respondent/s : Mr. R.R. K Pandey

(In CWJC No. 1823 of 2015)

For the Petitioner/s : Mr. Santosh Kumar Sinha

For the Respondent/s : Mr. Ajeet Kumar, SC28

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA

ORAL JUDGMENT

Date: 20-07-2015

Heard learned counsel for the parties in all these four writ applications.

The petitioners, being ANM, are aggrieved by an order of



cancellation of their earlier order of transfer. Learned counsel for the petitioners has submitted that after the petitioners had completed a period of three years, they had sought their transfer and the same was duly considered by the District Establishment Committee headed by the Civil Surgeon who had transferred the petitioners to the places requested by them but, even if such order was complied by the petitioners, the same has been rescinded only after three months.

The respondents have filed counter affidavit and explained that there were number of complains against such transfer order issued by the Civil Surgeon on the basis of a decision taken by the Establishment Committee and when this was brought into notice of the higher authorities including the Principal Secretary of the Health Department, the same was directed to be cancelled till review of such transfer was made by the competent authority. The respondents, therefore, have clarified that the order of transfer of the petitioners has been kept in abeyance by asking them to go to the earlier place of posting but, then, once a review is completed, an appropriate decision shall be taken. Learned counsel for the petitioners in reply has submitted that such a decision of review, as indicated in the order of the Civil Surgeon dated 26.8.2014, has not been take in a period of almost last one year.

In the considered opinion of this Court, while there would



be no difficulty in holding that the transfer of the petitioners being an incidence of service, they would be entitled for being transferred after completion of a period of three years but, then, when the petitioners itself had come to an opinion that the Civil Surgeon of the Committee had made large scale transfer resulting into serious complains against such a decision, a review, being sought at the level of the petitioners, cannot be said to bad either on fact or in law. Nonetheless, as the impugned order itself says that a review of such transfer order will be made, this Court would direct the Civil Surgeon to take a fresh decision but, only after obtaining prior approval of the Principal Secretary of the Health Department under whose order, the earlier decision of transfer of the petitioners had been cancelled.

This Court hopes and believes that such an exercise will be completed within a period of four months from the date of receipt of this order so that if the petitioners are to be transferred, their cases may also be included in the normal transfer made in the month of November/December, 2014.

Before parting with, this Court, however, must clarify that the case of the petitioner, namely, Indu Kumari (CWJC No. 1380 of 2015) shall be a bit different on account of subsequent events, inasmuch as, it is said that she has been detected with cancer and, therefore, her case for transfer to a place where her treatment can be

made without causing any difficulty to her should be considered by the Civil Surgeon separately even if the case of the three other petitioners do not find favour for their transfer to the place of their choice.

With the aforementioned observation and direction, all these applications are disposed of.

(Mihir Kumar Jha, J)

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