

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20812 of 2014

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1. Ranju Kumari @ Ranju Devi Wife of Sri Ram Niwas Singh, Resident of
Village- Singhpur, P.S. Nayagaon, District- Begusarai

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Director- in-chief, Health Services, Department of Health, Govt. Of Bihar, Patna
3. The District magistrate-Cum- Chairman, District Health Society, Khagaria
4. Civil Surgeon-Cum- Member Secretary, District Health Society, Khagaria
5. District Programme Manager, District Health Society, khagaria
6. The In-charge Medical Officer, Primary Health Centre, Khagaria

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pramod Mishra, Adv.

For the Respondent/s : Ms. Manisha Singh, A.C. to G.P.18

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 20-07-2016

Heard Mr. Pramod Mishra, learned counsel for the petitioner
and Ms. Manisha Singh A.C. to G.P.18, learned counsel appearing for
the State.

The petitioner is aggrieved by the order bearing Memo No.589
dated 4.4.2012 whereby she has been relieved of the duties of
Auxiliary Nurse Midwifery (hereinafter referred to as the 'ANM' for
the sake of brevity) on ground that her work was found to be
unsatisfactory. A copy of the order is impugned at Annexure-6.

Facts of the case briefly stated is that the petitioner was
engaged on contractual basis under the National Rural Health Mission
Programme vide decision of the District Health Society, Khagaria
which is Chaired by the District Magistrate. The order appointing the



petitioner on contractual basis was valid until the expiry of contract and/or one month advance notice or payment of one month honorarium vide order bearing Memo No. 5 dated 11.1.2008 present at Annexure-1 and following which an agreement to that effect has been entered in between the petitioner and the District Health Society on 19.1.2009 which is enclosed at Annexure-2. Under the terms of contract, the services of the petitioner as ANM was renewed for the period 1.2.2009 to 31.2.2012 subject to the continuation of the National Rural Health Programme under the Rural Health Mission and/or the expiry of the contractual period.

Mr. Mishra learned counsel appearing on behalf of the petitioner while submitting that the petitioner discharged her duties diligently, does admit that she did absent herself in between September, 2011 to March 2012. It is the contention of Mr. Mishra that the petitioner joined back in March 2012 and was also assigned work which is manifest from the office order dated 17.3.2012 and 19.3.2012 present at Annexure-5 and 5/A respectively. He submits that since after joining there was no complaint against the petitioner and by the impugned order bearing Memo No.589 dated 4.4.2012 her services has been dispensed with on grounds of unsatisfactory work. It is the argument of Mr. Mishra that the order has visited the petitioner with stigma and thus she required a notice in this regard to correct herself. According to Mr. Mishra the order casting a stigma in

absence of opportunity of hearing or a show cause, it is not capable of being upheld.

The argument of Mr. Mishra has been contested by Ms. Singh learned counsel for the State who relies upon the counter affidavit filed on behalf of the Civil Surgeon to submit that the contract period of the petitioner ended in January, 2012 and whereafter a process was initiated for renewal of contract which is manifest from Annexure-A dated 19.2.2012. It is stated that since during the process it transpired that the work of the petitioner was not satisfactory that it was decided to dispense with her services and such recommendation is reflecting from the letter dated 24.3.2012 of the Incharge Medical Officer, Primary Health Centre, Khagaria also forming part of Annexure-A series. She submits that it is in these circumstances that a decision was taken not to renew the contract of the petitioner and which finds mention in the order impugned dated 4.4.2012 which is not stigmatic in character.

I have heard learned counsel for the parties and I have perused the records.

It is not in dispute that the services of the petitioner was taken on contract which was valid only till 31.01.2012 which is confirmed from Annexure-2. Although thereafter some work has been taken from the petitioner as reflecting from Annexure-5 series but then it is not in dispute that the contract was yet to be renewed and a process in

that regard was initiated vide Annexure-A to the counter affidavit of the Civil Surgeon. During the examination of the individual cases, the work conduct of the petitioner did not persuade the respondents to renew her contract and which finds mention in the impugned order. In my opinion in the circumstances discussed, the order impugned is not stigmatic for it only proceeds to assign a reason for non renewal of a contract. The work assigned to the petitioner even after expiry of her contract in January, 2012 vide Annexure-5 and 5A may be a good ground for the petitioner to seek a reengagement but that does not bestow any enforceable right on the petitioner since her engagement was purely on contract basis. The District Magistrate is the Chairman of the District Health Society and the petitioner has filed her representation which is received in the office of the District Magistrate, Khagaria on 7.2.2013 almost one year after the termination. No grounds for indulgence is made out.

The writ petition is disposed of. This order however would not preclude the petitioner to apply afresh for her engagement in case the District Health Society decides as such.

Bibhash/-

(Jyoti Saran, J)

NAFR	
CAV DATE	
Uploading Date	3.8.16
Transmission Date	