

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.342 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 21414 of 2012**

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Dr. (Smt.) Anu Rani, Wife of Er. Ashok Varma Anuashok Ashram, Hospital
Chowk, Narkatiaganj, West Champaran, Pin- 845455

.... Appellants

Versus

1. The State of Bihar through Secretary, Department of Health, Govt. of Bihar,
Patna
2. Under Secretary, Health Department, Govt. of Bihar, Patna
3. Deputy Secretary, Health Department, Govt. of Bihar, Patna
4. Additional Secretary, Health Department, Govt. of Bihar, Patna
5. Civil Surgeon, Bhabhua, District- Kaimur

.... Respondents

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Appearance :

For the Appellant : Mr. Sunil Kumar Sahay, Advocate.
Mr. Umesh Tiwari, Advocate.

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 22-07-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench of this Court on 26th of
November, 2013 in C.W.J.C. No. 21414 of 2012, whereby the writ
application filed by the appellant challenging the order dated 16th of
May, 2006 passed by the Disciplinary Authority and the order dated
24th of April, 2012 passed in appeal affirming the order of the
Disciplinary Authority remained unsuccessful.



3. The appellant, a Medical Officer, was transferred to the office of Civil Surgeon, Bhabhua vide order dated 25th of September, 2000. The appellant submitted joining report on 21st of November, 2000 but did not take over charge and proceeded on leave on 22nd of November, 2000 till 12th of December, 2000 so that she can get treatment from Patna/Delhi (Annexure-1C). The stand of the appellant is that in terms of the office order dated 25th of September, 2000 (Annexure-1B), as there was no post available for her in the office of Civil Surgeon, Bhabhua, therefore, she has submitted her joining report before the Civil Surgeon, Patna on 15th of December, 2000.

4. The Civil Surgeon, Bhabhua, Kaimur communicated to Commissioner and Secretary, Health Department, Bihar, Patna on 9th of September, 2003 (Annexure-4). It is pointed out that Dr. (Mrs.) Kisan Singh was transferred to Shivsagar, District- Rohtas on 14th of November, 2000 and that there was one post vacant for the female Medical Officer. The appellant submitted her joining report on 21st of November, 2000 but did not take charge. She proceeded on leave from 22nd of November, 2000 to 12th of December, 2000 without permission of the Civil Surgeon. The appellant was directed on 29th of August, 2002 to join within one week but the appellant joined her duties on 8th of September, 2003.

5. Since the appellant remained absent from duty from



22nd of November, 2000 till 7th of September, 2003, therefore, a charge-sheet was served upon her on 27th of November, 2003. The report of the Inquiry Officer dated 9th of December, 2004 is Annexure-D with the counter affidavit. The charges have been found proved by the Inquiry Officer. On the basis of the said findings, the Disciplinary Authority passed an order of punishment on 16th of May, 2006 and that such order was affirmed in appeal.

6. Learned counsel for the appellant has vehemently argued that the appellant has submitted joining to Civil Surgeon, Patna in pursuance of the Government order dated 25th of September, 2000 as there was no post available in the office of Civil Surgeon, Bhabhua, therefore, the punishment imposed is illegal.

7. We find the said stand of the appellant to be incorrect. Civil Surgeon, Bhuabhua has communicated to the State Government that one female Medical Officer was transferred on 14th of November, 2000 and, thus, there was a post available for the appellant when she submitted her joining report on 21st of November, 2000. The appellant did not take over charge but felt satisfied by submitting her joining report. The very next day she submitted an application for leave but never got the same sanctioned. She remained absent from duty and joined only on 8th of September, 2003.

8. In departmental proceedings, this Court will examine

the decision making process. Learned counsel for the appellant could not point out any illegality in the conduct to departmental proceedings which led the order of punishment. Since the principles of natural justice and the rules of Disciplinary Proceedings have been complied with, therefore, we do not find that any cause is made out for interference in the present Letters Patent Appeal.

9. The Letters Patent Appeal is, thus, dismissed.

10. Learned counsel for the appellant seeks leave to appeal.

11. We do not find any ground for granting leave to appeal. The same is declined.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P./Narendra
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