

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9057 of 2013

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1. Dr. Jeeban Prasad Bhagat S/O Late Ramjee Bhagat Resident Of Village- Mahadeo, P.O And P.S- Bariyarpur, District- Munger.
 2. Dr. Jai Prakash Singh S/O Sri Triveni Kumar Resident Of Village And P.O- Abhaypur, District- Lakhisarai.

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department Of Health And Ayush, Govt. Of Bihar, Patna.
3. The Joint Secretary, Department Of Health And Ayush, Govt. Of Bihar, Patna.
4. The Executive Director, State Health Society, Patna.
5. The District Magistrate- Cum- Chairman, District Health Society, Lakhisarai.
6. The Civil Surgeon- Cum- Secretary, District Health Society, Lakhisarai.
7. The Deputy Development Commissioner- Cum- Chief Executive Officer, District Board, Lakhisarai

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Adv.
Mr. Govindra Gavrav, Adv.
For the Respondent/s : Mr. Kinkar Kumar, SC-27

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 24-06-2016

Heard learned counsel for the petitioner and counsel for the State.

In this case the petitioners have approached this Court for quashing of letter no. 76 (De. Chi.) dated 23.1.2013 issued by the Joint Secretary, Department of Health, Government of Bihar, Patna, whereby and whereunder, the Civil Surgeon cum Chief Medical Officer, Lakhisarai has been directed to cancel the deputation of the petitioners and return their services to the District Board, Lakhisarai.



Subsequently, vide I.A. No. 1989 of 2016, the petitioner has challenged letter no. 708 dated 21.7.2015, whereby and whereunder, the Joint Secretary has written a letter to the Civil Surgeon cum Principal Secretary, District Health Society to ensure that the petitioners be relieved from the services of the State Government and repatriated him to the services of District Zila Parishad, Lakhisarai. The petitioner no.1 was appointed as Ayurvedic Doctor in the district Board, Munger. Similarly, petitioner no.2 was appointed as Homeopathic doctor in the District Board, Munger.

The Government opened the Health Centre at different places and wanted to make it functional, were required additional hand of doctors and, in pursuance thereof, the Government took decision to take services of doctors appointed in different organization including the doctors who were working in the Zila Parishad. After bifurcation of District Munger, Lakhisarai district constituted a new Zila Parishad i.e. Lakhisarai Zila Parishad, services of the petitioners was transferred from the Zila Parishad, Munger to Zila Parishad, Lakhisarai. In pursuance of a decision of the State Government, the Government has requested Panchayat Raj Department to provide hands of doctors on deputation so that the Health Centers may be made functional which will serve the people of locality which was accepted by the Panchayat Raj Department and, in pursuance thereof,



the Panchayat Raj Department has written a letter requesting all Zila Parishad to give No Objection to the deputation of the doctors who are working in the Zila Parishad for making the Health Center functional. In pursuance thereof, the Executive Officer, Zila Parishad, Lakhisarai vide letter dated 31.8.2009 handed over the services of these petitioners to Civil Surgeon, Lakhisarai. In the said letter it has been mentioned that the services of the two petitioners have been terminated temporarily and the petitioners are trying hard to get benefit of the clause mentioned in the said letter but, in fact, from the contents of the letter, it is apparently clear that it was letter of deputation of the petitioners to the Health Department for the purpose of running the Health Center. It is also very much clear from the letter of Chief Medical Officer, Lakhisarai dated 22.9.2009 (Annexure-5) wherein it has been mentioned that the services of the petitioners was given on deputation. Learned counsel for the petitioners tried his best to impress upon this Court that the services of the petitioners were terminated from there and they should be treated to be an employee of the State Government. According to them, they cannot be repatriated to the original organization i.e. Lakhisarai Zila Parishad as his lien is attached to the services of the State Government but, the learned counsel for the petitioners could not show any letter from which it appears that the services of the petitioners were ever absorbed by the



State Government rather letters apparently show that it was a case of deputation of services of the petitioners for certain purpose for a temporary period and the purpose of taking the services of the petitioners and others was to make the Health Center functional established by State so that the people in the locality will be benefited from the Health Center. The dispute arose between these petitioners and the State Government when question of payment of salary cropped up. The petitioners have approached in the present writ application challenging the order of repatriation and also raising a grievance of non-payment of their salary. The Government of Bihar has directed the Civil Surgeon cum Chief Medical Officer to repatriate and relieve the petitioners from their services. The Zila Parishad have been created under the Constitutional scheme is a separate and distinct body than that of the State Government. The State Government gives grant to the Zila Parishad but, it does not mean that the employee, working in the Zila Parishad, will be treated to be an employee of the State Government. When a person is sent on deputation, a deputationist has no right to continue in the organization where he has been deputed and the person can be repatriated in the parent department any time, the employee cannot raise any grievance on his repatriation.

In that view of the matter, this Court does not find any

merit in the present application. However, if the petitioners join the services at Zila Parishad, Lakhisarai, the authority will be obliged to accept the services of the petitioners and will pay salary to the petitioners in accordance with law. However, petitioners are at liberty to approach the Government for their appointment on contract basis but, this should not be treated to be a direction but, merely an observation and the State Government will act in accordance with law.

With the aforementioned observation, this application is disposed of.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.7.2016
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