

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.371 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 16071 of 2015

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1. Dr. Santosh Kumar Mishra, Son of Sri Krishna Bihari Mishra, resident of Village
& P.O.- Barka gaon, P.S.- Buxar, District- Buxar.

.... Appellant

Versus

1. The State of Bihar.

2. The Principal Secretary, Department of Health, Government of Bihar, Patna.

.... Respondents

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Appearance :

For the Appellant : None

For the Respondents : Mr. Prabhu Narayan Sharma, AC to AG

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 05-12-2016

None appears on behalf of the appellant today. None appeared on behalf of the appellant as well on 28th of November, 2016 to press the Letters Patent Appeal.

The challenge in the present Letters Patent Appeal is to an order dated 13th January, 2016 passed by learned Single Bench of this Court in C.W.J.C.No. 16071 of 2015 wherein the prayer of the appellant for his transfer and posting to Patna Medical College & Hospital, Patna against three vacant posts of Associate Professor, remained unsuccessful.

Learned Single Bench dismissed the writ application on the ground that the appointment of the appellant was contractual for a period of three years, therefore, the Rules and Regulations which are applicable in the case of regular employees, cannot be claimed by the



appellant.

A perusal of the order dated 28th February, 2014 shows that the appellant was appointed as Associate Professor for a period of three years in Government Medical College, Bettiah with effect from 13th February, 2014. Since the appointment itself is a contractual, the appellant cannot seek transfer to another medical college on the ground that the posts in another medical college are lying vacant. In the counter affidavit it is pointed out that the appellant has signed an agreement on 13th of February, 2014 which has a clause that contractual appointment is not transferable.

In view of the nature of appointment and the agreement executed, the appellant cannot seek transfer to another medical college as he is not a regular employee.

In view of the above, we do not find any merit in the Letters Patent Appeal. The same is accordingly, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

A.I./-

AFR/NAFR	NAFR
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