

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19140 of 2016

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Dr. Anant Kumar Jha, Son of Late Chakradhar Jha, resident of village New Balbhadrapur, P.O. Laheria Sarai, District- Darbhanga. Presently posted as Medical Officer, District- T.B. Centre, Sitamarhi.

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, New Secretariat, Patna.
3. The Civil Surgeon cum Chief Medical Officer, Sitamarhi.
4. The Additional Civil Surgeon, Sitamarhi.
5. The District Magistrate, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner : Mr. Surendra Mishra, Advocate
For the State : Mr. Kamlesh Kishore, A.C. to S.C. 12

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

ORAL JUDGMENT

Date: 08-02-2017

Heard parties.

Petitioner seeks quashing of the order dated 28.06.2016 by which he has been transferred from District Tuberculosis Centre Sitamarhi to Primary Health Centre Bathnaha under the same district of Sitamarhi.

Learned counsel for the petitioner informs that the petitioner has already joined at Bathnaha. First point taken by the



petitioner is that his transfer cannot be done by the District Establishment Committee because he is in the rank of Chief Medical Officer and his post has been earmarked for higher scale. In support of his contention, learned counsel places reliance upon Annexure 1 and particular Clause 7 thereof. However, from perusal of the aforesaid Clause, it appears that dynamic A.C.P. was given to the petitioner and, in my opinion, that cannot be held to be a post earmarked for higher pay scale rather it is merely grant of A.C.P. and, as such, his contention that District Establishment Committee constituted in view of the resolution of the Government contained in Annexure A is not competent to transfer him within the same district, is not tenable at all. Second plea taken by the petitioner is that his wife is posted at Sitamarhi and he has been transferred to Bathnaha whereas Rule provides that so far as possible husband and wife should be posted at one place and such benefit has been given to other similarly situated persons. However, in answer to the courts query, learned counsel has submitted that petitioner is posted at Sitamarhi since last 3-4 years.

In such a situation, this Court cannot direct the State authorities to keep him posted at Sitamarhi itself. However, it would be open for the wife of the petitioner to approach the competent authority for her transfer to Bathnaha. If the posts are available there then let such representation, if filed, be considered by the authority in



accordance with law and existing rules.

This writ application, accordingly, stands disposed of.

(Dr. Ravi Ranjan, J)

Sanjay-II/-

AFR/NAFR	NAFR
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