

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10015 of 2014

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1. Vishwanath Bharti S/o Prof Nagendra Nath Resident of Village -
Vikramshila Colony, Ramshar, Post - Naya Bazar, District - Bhagalpur, at
presently posted Hospital Manager, Sadar Hospital, Sheikhpura.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Executive Director, the State Health Society, Bihar, Patna.
4. The District Magistrate-cum-Chairman, the District Health Society,
Sheikhpura.
5. The Civil Surgeon-cum-Member Secretary, the District Health Society,
Sheikhpura.
6. The Deputy Superintendent, Sadar Hospital, Sheikhpura Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : M/s Onkr Kumar & Rama Kant Singh

For the Respondent/s : Mr. AC to GA 13

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR

JHA

ORAL ORDER

4 23-11-2017

Heard both sides.

The petitioner seeks quashing of the memo No. 562 dated 22.05.2014 (Annexure-2) and memo No. 408 dated 23.05.2014 (Annexure-3) by which service of petitioner has been terminated from the post of Manager (Hospital).

The brief facts is that in pursuance of an advertisement issued under the signature of District Magistrate-cum-Chairman, District Health Society, Sheikhpura the petitioner was appointed on the post of Manager (Hospital). Some explanation was asked from the petitioner about his non functioning. The petitioner gave his reply but the Civil Surgeon issued termination order of the petitioner (Annexure-2) and thereafter, in pursuance thereof, the Deputy Superintendent, Sadar Hospital, Sheikhpura asked the petitioner to hand over the charge



(Annexure-3).

The learned counsel for the petitioner submits that, of course, the petitioner was working on the post on contract but removal of the petitioner from the post of Manager (Hospital) is stigmatic. The Civil Surgeon made allegation against the petitioner that petitioner committed financial irregularities and did not obey the order of superior authority. No instance of financial irregularity or indiscipline was found true but even then the petitioner was removed from the post and fresh advertisement has been issued for appointment on the post of Manager (Hospital) (Annexure-1). The petitioner also filed petition before the District Magistrate against the constitution of the enquiry committee, in pursuance of the report thereof, the service of petitioner has wrongly been terminated.

On the contrary, the learned counsel for the respondents submits that the petitioner was appointed on contract basis. It was one of the condition of the appointment of the petitioner that petitioner can be removed from service after termination of scheme or the period of contract or any time before that, after giving one month notice. From the letter of termination (Annexure-2), it appears that one month notice was given to the petitioner. It is further submitted that a division bench of this court in the case of ***Rana Pravin Kumar Solanki v. the State of Bihar & Ors (LPA. No. 340 of 2012)*** has clearly held that the State Health Society is a Society registered under the Societies Registration Act and the same cannot be amenable to writ jurisdiction. The petitioner, appointed by the District Health Society, cannot claim himself to be a civil servant of the State nor he is entitled to the benefit of the protection under Article 311 of



the Constitution of India. It is also held that if an employee is aggrieved, he may file a suit before the civil court.

From the records, it is evident that petitioner was appointed by the District Health Society on the post of Manager (Hospital). When the petitioner did not function properly the District Magistrate-cum-Chairman, District Health Society and Civil Surgeon asked show cause from the petitioner. Thereafter, the petitioner was given one month notice and his service was terminated. Therefore, I find no illegality in the order. The service of the petitioner was terminated in accordance with terms of contract after giving one month notice.

Accordingly, I do not find any merit in this writ petition and the same is dismissed.

(Prabhat Kumar Jha, J)

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