

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.412 of 2014

IN

Civil Writ Jurisdiction Case No. 20241 of 2012

- =====
1. The State Of Bihar Through Principal Secretary Cum Commissioner, The Home (Jail), Old Secretariat, Patna
 2. Inspector General Of Prison, Old Secretariat, Patna
 3. Jail Superintendent, District Jail, Biharsherif
 4. Jail Superintendent, District Jail, Saharsa

.... Appellant/s

Versus

1. Jai Narayan Mehta, S/O Late Jwalal Mehta Resident Of Village + P.O. Siripur Kushasan, Via- Tharbitha, P.S. Kishanpur, District- Supaul
2. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Shambhu Nath, Advocate
For the Respondent/s : Mr. Ramendra Nath Mukhopadhyay
For the Accountant General : Mr. Raghwand, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 20-09-2017

Seeking exception to an order passed on 21.03.2014 in Civil Writ Jurisdiction Case No. 20241 of 2012, this appeal has been filed by the State Government.

The facts in brief goes to show that respondent Jai Narayan Mehta was posted as a Compounder in the District Jail, Biharsherif when a prisoner in the hospital complained of various ailment and, therefore, in the evening of 10.10.2007, the prisoner was referred to the jail doctor Dr. Murtuza Ansari who after taking note of the complaint of the prisoner Jogi Dhari who



was complaining of loose motion and vomiting, prescribed him certain medicines as an out patient and also advised him to take saline water. Thereafter, in the evening of 10.10.2007, Dr. Murtuza Ansari left on sanctioned leave between 11.10.2007 to 15.10.2007 and it is an admitted position that he did not hand over the charge to the other doctor posted in the jail, Dr. Sunil Kishore Prasad Singh and the said doctor also did not attend the jail on the next date. On 11.10.2007, the respondent employee is said to have administered the same medicine and injection that was prescribed by Dr. Murtuza Ansari to the patient. However, the patient died and on account of hue and cry made and the notices issued by the State Human Rights Commission, an enquiry was conducted and as the respondent employee had retired during the course of enquiry, he was punished with reduction of pension by 10 per cent for a period of five years.

Learned Writ Court, on challenge made by the respondent employee, considered various aspects of the matter and found that the employee concerned had not committed any error. He had only administered the medicines prescribed by Dr. Murtuza Ansari and the post-mortem report shows that prisoner Jogi Dhari died because of dehydration. Holding that the Compounder is not responsible for any act of commission and omission, learned Writ Court has interfered into the matter.

We see no reason to make any indulgence for the simple reason that no action was taken against the doctor



concerned who was negligent on the discharge of his duty and the charge against the respondent Compounder cannot be sustained for the simple reason that he has only administered the medicines which were prescribed by Dr. Murtuza Ansari on the previous day evening.

Taking note of the facts and circumstances which weighed that learned Writ Court has interfered into the matter, on such consideration which also includes the fact that no action was taken against the doctor concerned, we see no reason to make any indulgence into the matter.

The appeal stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
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