

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21220 of 2012

=====

Phul Kumari, Daughter of Late Baidyanath Prasad Singh, Resident of Village -
Bhawanipur, P.O. - Narayanpur, P.S. - Bihpur, District - Bhagalpur
..... Petitioner

Versus

1. The State of Bihar
2. Principal Secretary, Department of Health, Govt. of Bihar, Patna
3. Director-in-Chief, Health Services, Bihar, Patna
4. Deputy Director, Health Services, Bihar, Patna
5. Principal, Patna Medical College, Patna
6. Professor & Head of Department, Microbiology, Patna Medical College, Patna
..... Respondents

=====

Appearance :

For the Petitioner	: Mr. Ram Hriday Prasad, Advocate Ms. Maruti Kumari, Advocate
For the Respondents	: AC to SC16

=====

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT
Date: 11-09-2017

I.A. No. 6585 of 2017

The Interlocutory Application has been filed for addition of
prayer in the main writ petition as follows :

*"To quash the order of Director-in-Chief, Health Services,
Bihar, Patna dated 19.11.2013 (Annexure-C of the Counter
affidavit) by which the petitioner has been terminated
from the date of joining and order was passed not to give
honorarium for the period of work done."*

2. Having regard to the nature of the prayer made in the
interlocutory application, the same is allowed and is treated as forming
part of the writ petition.

3. I.A. No. 6585 of 2017 stands allowed.

CWJC No. 21220 of 2012



4. The present writ petition has been filed for the following reliefs--

- (i) *To issue a writ in the nature of certiorari quashing the impugned order dated 10.12.2011 passed by the respondent no. 5 and issued under the signature of respondent no. 5 vide memo no. 4014 dated 10.12.2011 as contained in Annexure-11 of the writ application by which impugned order the respondent no. 5 returned the services of the petitioner to the respondent no. 3 on the ground that the B.Sc. M.L.T. Degree awarded by J.R.N. Rajasthan Vidyapeeth University, Udaipur (Rajasthan) is not recognized by the Rajasthan Government;*
- (ii) *To issue an order/orders, direction/directions or writ in the nature of mandamus directing the respondent no. 3 to return the services of the petitioner to the respondent no. 5, take work from the petitioner and pay salary to the petitioner due since the day of joining (13.07.2010) till date; and*
- (iii) *To any other relief/reliefs for which the petitioner is entitled.*

5. Learned counsel for the petitioner submits that the services of the petitioner has been terminated merely on the ground that she was found to have obtained the qualification of Bachelor of Science in Medical Laboratory Technology (BSc. MLT) through distance education from J.R.N. Rajasthan Vidyapeeth University, Udaipur,



Rajasthan. It is stated that the petitioner had earlier been selected on the post of Laboratory Technician and posted in the Sadar Hospital, Ara where the petitioner joined on 13.07.2010 and thereafter by memo dated 20.08.2010 the Director-in-Chief, Health Services, Bihar, Patna (respondent no. 3) posted the petitioner under the Principal, Patna Medical College, Patna (respondent no. 5) where the petitioner joined on 08.09.2010 in the Microbiology Department. By memo dated 21.07.2011 the respondent no. 3 extended the period of appointment for a period of one year. On 10.12.2011 however, the respondent no. 5 returned the services of the petitioner to the respondent no. 3 on the ground that the B.Sc. (MLT) degree through distance education awarded by the J.R.N. Rajasthan Vidyapeeth University, Udaipur, Rajasthan was not recognized by the Rajasthan Government.

6. Learned counsel for the petitioner submits that the petitioner's service has wrongly been returned by respondent no. 5 as the qualification of B.Sc. (MLT) obtained by her was valid. It is submitted that by reason of a mistake on the part of the respondents, the petitioner has been kept out of service and is entitled for reinstatement together with full back wages. Reliance is placed on the judgment dated 20.05.2016 passed by this Court in CWJC No. 20837 of 2014 (Pawan Kumar and others Vs. The State of Bihar through the Secretary, Department of Health Government of Bihar



and others) in the case of similarly situated persons namely, Pawan Kumar, Pradeep Kumar and Awadhesh Prasad Das, all of whom had obtained similar qualification from the same University.

7. Learned counsel for the respondents on the other hand, submits that admittedly the petitioner's appointment had been extended by memo dated 21.07.2011 for a period of one year which thus expired on 20.07.2012 and as such the contract having come to an end, the petitioner is not entitled for reinstatement. It is further stated that LPA No. 815 of 2017 has been filed against the judgment dated 20.05.2016 passed in CWJC No. 20837 of 2014 aforesaid.

8. Having heard learned counsel for the parties and on a consideration of the materials on record, this Court is of the view that a direction for reinstatement of the petitioner cannot be given at this stage when the contract of appointment, having been extended only for one year, had itself expired on 20.07.2012 and the petitioner cannot claim a right to be allowed to work beyond that date. In view of the judgment in CWJC No. 20837 of 2014 aforesaid, the petitioner is clearly entitled to back wages as her services had been returned and she was kept out of service for no fault on her part.

9. In the above view of the matter, the Director-in-Chief, Health Services, Bihar, Patna (respondent no. 3) is directed to ensure that the petitioner is paid full back wages up to 20.07.2012 when the validity of the contract expired. It is made clear that any such



payment made to the petitioner shall be subject to the final outcome of LPA No. 815 of 2017.

10. The writ petition stands allowed to the above extent.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.09.2017
Transmission Date	N.A.

