

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19328 of 2016

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1. Birendra Kumar Jha, Son of Late Kishori Jha, resident of village - Harpur Ailoth, P.S. Musrigharari, District – Samastipur.
 2. Ram Naresh Karn @ Ram Naresh Kumar Karn, Son of Late Bangali Lal Karn, resident of village - Manika, P.S. Sarairanjan, District – Samastipur.
 3. Sabita Kumari, Wife of Sri Binay Kumar Tiwary, resident of village - Rampur Dudhpura, P.S. Muffasil, District – Samastipur.
 4. Rita Kumari, Wife of Sri Anil Kumar, resident of village - Harpur Singhia, P.S. Muffasil, District – Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Services, New Secretariat, Patna.
2. Director in Chief, Directorate of Health Services, Govt. of Bihar, New Secretariat, Patna.
3. The Civil Surgeon cum Chief Medical Officer, Samastipur.
4. The Superintendent, Sadar Hospital, Samastipur.
5. The Addl. Chief Medical Officer, Samastipur.
6. Deputy Superintendent, Sadar Hospital, Samastipur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Jha, Adv.
Mr. Sushil Kumar Jha, Adv.

For the Respondent/s : Mr. Anuj Kumar, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 17-08-2017

Heard Mr. Gajendra Kumar Jha, learned counsel appearing on behalf of the petitioners and Mr. Anuj Kumar, learned Assisting Counsel to Standing Counsel No.12 for the State.

The petitioners are aggrieved by the order of the Deputy Superintendent, Sadar Hospital, Samastipur bearing Memo No.718 dated 23.9.2016, whereby they have been directed to report at the District Tuberculosis Centre, Samastipur treating them to be the employees of the District Tuberculosis Centre, Samastipur.



Mr. Jha, learned counsel appearing for the petitioners in reference to the appointment orders of the petitioners present at Annexures 2 to 4 submits that the appointing authority of the petitioners is the Civil Surgeon –cum- Chief Medical Officer, Samastipur and these petitioners were appointed at Sadar Hospital/Primary Health Centres and not appointed at District Tuberculosis Centre as presumed by the Deputy Superintendent, Sadar Hospital, Samastipur which is erroneous.

The argument of Mr. Jha has been accepted by the learned State Counsel who does accept that these petitioners are not the employees of the District Tuberculosis Centre, Samastipur. Even the affidavit of the Civil Surgeon –cum- Chief Medical Officer confirms this position when he submits that these petitioners were on deputation at the District Tuberculosis Centre, Samastipur. It is further stated that as per the advisory issued by the Principal Secretary of the Health Department bearing No.1161(2) dated 4.8.2016 present at Annexure-B all deputations made after 1.7.2015 were illegal and thus all persons who were on deputation after 1.7.2015, were directed to return to their parent post. While accepting in paragraph 6 of the counter affidavit that the petitioners were on deputation at the Tuberculosis Ward, the Civil Surgeon has referred the advisory of the Principal Secretary dated 4.8.2016



requiring the deputationist to return to their parent post.

In view of such admitted position, the order dated 23.9.2016 passed by the Deputy Superintendent, Sadar Hospital, Samastipur in treating the petitioners as employees of the District Tuberculosis Centre, Samastipur is contrary to the materials on record and is accordingly quashed and set aside.

The writ petition is allowed. The Civil Surgeon –cum- Chief Medical Officer, Samastipur shall issue appropriate order of posting in respect of the petitioners as per the requirement and bearing in mind the advisory of the Principal Secretary, Health Department dated 4.8.2016, within fours weeks from the date of receipt/production of a copy of this judgment.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08-09-2017
Transmission Date	NA

