

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4684 of 2017

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Archana Kumari Wife of Sunil Kumar, D/o Shankar Das, Resident of Village-Khawa, P.O.-Kiranpur, Police Station and District-Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Health, Bihar, Patna.
2. The Director-cum-Chief, Health Services Bihar, Patna.
3. The District Magistrate, Begusarai.
4. The Civil Surgeon-cum-Chief Medical Officer, Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. Rabi Bhushan, Adv

For the Respondents :

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 07-09-2017

The present writ petition has been filed for a direction to the respondents to transfer the petitioner from her place of posting to the place of posting of her husband who is employed as Panchayat Teacher in the Khawa Chai Tola Primary School under Village Panchayat Khawa Rajpur within Suryagarha Block of the District of Lakhisarai.

2. Learned counsel for the petitioner relies on the circular No. 1/Pa.1-10177/67-Ni.-15054 dated 05.10.1967 to submit that if the husband and wife are both Government servants and working in the same department, then effort should be made to post them at the same place and if they are working in different departments, then their request for transfer at one place be sympathetically considered by the



concerned department.

3. Learned counsel for the respondents on the other hand, relies on the counter affidavit to submit that a petition had been received from the petitioner on 25.07.2016 for mutual transfer with one Sima Kumari, A.N.M., which however, was not granted in view of the earlier decision dated 23.06.2016 of the District Establishment Committee not to transfer newly appointed staff. It is stated that the petitioner did not file a petition for transfer on the basis of the circular relevant for husband and wife Government employees. It is further submitted that the said circular is not applicable to the petitioner as her husband being employed as Panchayat Teacher is not a Government employee. In any event, it is stated that if any petition is filed on the basis of such circular, the same would be placed before the District Establishment Committee for appropriate consideration.

4. Having heard the parties and on a consideration of the materials on record, this Court finds that the representation of the petitioner dated 25.07.2016 (Annexure-5) contains her request for transfer on the ground that the petitioner's husband was posted in the District Lakhisarai. The stand of the respondents that the petitioner's request was for mutual transfer with Sima Kumari, A.N.M., therefore, does not appear to be correct.

5. In the above view of the matter and in the light of the statements made in para 8 of the counter affidavit, the writ petition is



disposed of with a direction that the representation of the petitioner dated 25.07.2016 (Annexure-5) be placed before the District Establishment Committee for consideration and disposal on its own merits, in accordance with law.

Chandran/BT

(Vikash Jain, J)

AFR/NAFR	NAFR
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