

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9420 of 2016

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1. Harendra Rai, Son of Late Sita Ram Rai, Resident of village - Tikachhapar, Post Office - Brindavan Ashram, Police Station Chanpatiya, District West Champaran (Bettiah).
 2. Md. Nazir Hussain Ansari, Son of Late Md. Mobin Ansari, Resident of village + Post Office- Kuanwa, Police Station- Chakia, District - East Champaran (Motihari).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Director - in - Chief, Health Services, Bihar, Patna.
3. The Commissioner, Tirhut Division, Muzaffarpur.
4. The District Magistrate, West Champaran, Bettiah.
5. The Deputy Development Commissioner, West Champaran, Bettiah.
6. The Additional Collector, West Champaran, Bettiah.
7. The Additional Collector, District Establishment, West Champaran, Bettiah.
8. The District Programme Officer, West Champaran, Bettiah.
9. The District Welfare Officer, West Champaran, Bettiah.
10. The Regional Deputy Director of Education, Tirhut Division, Muzaffarpur.
11. The Civil Surgeon -cum - Chief Medical Officer, West Champaran, Bettiah.
12. The Incharge Medical Officer, Primary Health Centre, Dumaria, Narkatiaganj, West Champaran, Bettiah.
13. The Incharge Medical Officer, Primary Health Centre, Piprasi, West Champaran, Bettiah.
14. The Deputy Collector, Nazarat, West Champaran, Bettiah.
15. The Regional Additional Director, Health Services, Tirhut Division, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Singh, Adv.
Mr. Lokesh Kumar Singh, Adv.
For the Respondent/s : Mr. Uday Bhan Singh, AC to GP-19

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 13-12-2017

Heard Mr. Sanjay Singh, learned counsel appearing for the petitioners and Mr. Uday Bhan Singh, learned Assisting Counsel to Government Pleader No.19 for the State.

The contest in hand stands discussed in the order passed



on 8.4.2017 and these petitioners stand removed from service vide Annexures 8 and 8/A respectively on the basis of a proceeding present at Annexure 7 which in turn rests on a judgment and order of this Court passed in CWJC No.15078 of 2012, whereby a coordinate Bench of this Court while finding merits on the contentions advanced by the writ petitioners of the said writ petition and remitting the matter for consideration before the respondent authorities, issued order that the lowest person in the merit list would have to make way for those writ petitioners. It is in consequence of the implementation of the judgment and order of this Court that these petitioners stand removed from their respective post not because that they were found wanting on their duty or for disciplinary reasons or their capacity to hold the post rather it is in implementation of the order passed in CWJC No.15078 of 2012 that they stand removed and thus are before this Court.

It is taking note of the circumstances that this Court sought instruction from the District Magistrate, West Champaran as to whether there was any possibility of adjustment of these petitioners on any equivalent post because they succeeded in the selection and were appointed but have to make way by virtue of the change in circumstances.

A counter affidavit is filed and it is stated at paragraphs 10



and 11 of the counter affidavit filed on behalf of the respondent no.4 as well as paragraph 7 and 8 of the counter affidavit filed on behalf of the respondent no.11 that in absence of roster clearance no adjustment can be carried out.

In the nature of the order passed by a coordinate Bench in CWJC No.15078 of 2012 which has led to the removal of these petitioners, the stand taken by the respondents in the counter affidavit cannot be interfered with.

However Mr. Singh, learned counsel appearing for the petitioners prays for leave to move the appropriate forum as against the observation of the coordinate Bench which has prejudiced the petitioners.

Leave is granted.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.01.2018
Transmission Date	NA

