

**IN THE HIGH COURT OF JUDICATURE AT
PATNA
Civil Writ Jurisdiction Case No.9761 of 2017**

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Smt. Mani Devi, presently posted as Auxiliary Nurse Midwife (ANM) at Health Sub Centre, Chautham, W/o Sri Mahendra Choudhary, R/o Village & P.O. Samaspur, P.S.- Maheshkhut, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Principal Secretary, Health Department, Government of Bihar, Patna.
3. The District Magistrate, Khagaria.
4. The I/C Medical Officer, Primary Health Centre- Choutham, Khagaria.
5. The Block Health Manager, Primary Health Centre- Choutham, Khagaria.
6. The Civil Surgeon, Khagaria.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Vagisha Pragya Vacaknavi, Adv.
For the Respondent/s : Mr. Anshuman Singh, AC to AG

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**CORAM: HONOURABLE JUSTICE SMT. ANJANA
MISHRA
ORAL ORDER**

4 10-10-2017

Heard learned counsel for the petitioner and
learned counsel for the State.

The petitioner is an Auxiliary Nurse Midwife (ANM), who has been subjected to an order of transfer which is annexed as Annexure- P/1 to the present writ application. The said order of transfer, on a plain reading, indicates that it has been occasioned on account of administrative exigency. Petitioner's name finds place at



Serial No. 10.

Learned counsel for the petitioner submits that the present order of transfer has been occasioned by way of punishment inasmuch as she was asked to explain her action within a month prior to the transfer and she had answered the same to the best of her ability. She, thus, submits that the order of transfer is purely punitive in nature and cannot be sustained. She further submits that if she is transferred by way of punishment, the petitioner shall also suffer stigma which shall damage her service prospects in future. In support of her contention, she has referred to a judgment reported in 2015(1) PLJR page 405 wherein this Court has set aside the order of transfer on the ground that it was stigmatic and was violative of the petitioner's right in that case.

Learned counsel for the State has, however, opposed the application and a counter affidavit has been filed in this case wherein it has been stated that the petitioner had been functioning at her place of posting for a period of nine years and she has, thus, been transferred. She has, however, refused to accept the order of transfer and when the same was not received by her, it has been sent to her



home address on 17.06.2017. It is stated in the counter affidavit that the transfer of the petitioner was done to facilitate the better health service and also because she had continued to function at a particular place for nine years. As such, there is no element of penalty attached to her transfer and other similarly situated persons, who were given notice, have also been transferred by the impugned order. Thus, there is no illegality so as to warrant interference by this Court.

Having heard learned counsel for the petitioner, learned counsel for the State and after examining the facts and circumstances, which occasioned the transfer of the petitioner, I am not inclined to interfere into the impugned order, as transfer is purely an incidence of service and no person has an inherent right to be posted at one particular place, more particularly so when the person is posted for a continuous length of nine years.

In the result, the writ application is devoid of any merit and it is dismissed.

(Anjana Mishra, J)

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