

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 553 of 2015

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Anusha Kumari Wife of Sri Ramesh Prasad resident of village - Makhdumpur,
Police Station Alipur in the District of Gaya

.... 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 Director - in - Chief, Health Services, Government of Bihar, Patna
4. The Civil Surgeon - cum - Chief Medical Officer, Gaya
5. The In - Charge Medical Officer, Primary Health Centre, Paraiya in the district of Gaya
6. The In - Charge Medical Officer, Primary Health Centre, Atri in the district of Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Sunil Kumar, Advocate

For the Respondent/s : Mr Arvind Kumar, AC to GA IX

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 28-03-2018

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

2 The writ petition has been filed for a direction to the respondents to allow the petitioner to perform her duty as Auxiliary Nurse Midwife (for brevity, *ANM*) in the Primary Health Centre (for brevity, *PHC*), Atri in the district of Gaya and also for a direction for payment of arrears of salary from August, 2005 being the date on which her joining is said to have been accepted by the Civil Surgeon – cum- Chief Medical Officer (for brevity, *CS –cum- CMO*), Gaya



under his order dated 23.08.2005 which is Annexure 7 to the writ petition.

3 The respondent-State has filed a counter affidavit with a specific stand that after her transfer from PHC, Paraiya to the PHC, Atri under order dated 20.02.2003 bearing Memo No 4364, the petitioner never joined her service in PHC, Atri. It is the stand of the State Government in the counter affidavit that even after her joining was accepted by the orders of the CS –cum- CMO, pursuant to the order dated 27.06.2005 passed in *CWJC No 14058 of 2003*, the petitioner never joined at the PHC, Atri and there is no official record regarding any work performed by the petitioner for the last about twelve years.

4 This Court finds that under the order of the CS –cum- CMO dated 23.08.2005, the petitioner's joining as ANM in the PHC, Atri had been accepted. There is nothing on record to show that after 2005, the petitioner has ever joined at the PHC, Atri and about 10 years later, this writ petition has been filed for a direction to the respondents, as noticed above. The respondents have further placed on record the fact that under Memo No 2755, a show cause notice was issued to the petitioner on 23.07.2015 directing her to appear within one week and to file her reply regarding her long absence. It is the stand of the State that the petitioner has never appeared in response to



the said show cause. Attention of the Court has also been drawn to the press notice issued in the daily newspaper Dainik Jagran on 05.07.2015 whereby the petitioner was directed to appear before the CS –cum- CMO, Gaya in order to explain the circumstances of her absence and the reasons for not performing work at the newly transferred post being PHC, Atri. Specific stand of the respondent-State is that in response to the show cause or in response to the said paper publication, the petitioner has never appeared before the authorities and that she has absented herself for the last twelve years. The said assertions made in the counter affidavit have not been rejoined by the petitioner.

5 In view of the said developments brought on record by the respondent-State, it would be open to the petitioner to appear before the authorities and seek redressal of her grievance by satisfying the authorities pursuant to the show case, noticed hereinabove.

6 No further orders need be passed in relation to the writ petitioner. The writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
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