

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.294 of 2016

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1. Dr. Nishant Nikhil, son of Dr. Nawal Kishore Sahu, resident of Mohallla-Madarpur, P.S.-Laheriasarai, Town & District- Darbhanga.
 2. Dr. Rekha Kumari, wife of Dr. Nishant Nikhil, resident of Mohalla- Madarpur, P.S.- Laheriasarai, Town & District- Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Health Department, Government of Bihar.
2. The State Health Society, Bihar through Executive Director, Family Welfare Building, Sheikhpura, Patna.
3. The Executive Director, Family Welfare Building, Sheikhpura, Patna.
4. The Administrative Officer, Family Welfare Building, Sheikhpura, Patna.
5. The District Health Society, through District Magistrate, TBDC Building, Alalpatti, Darbhanga.
6. The District Magistrate, Darbhanga, cum Chairman, District Health Society, TBDC Building, Alalpatti, Darbhanga.
7. The Civil Surgeon cum Member Secretary, District Health Society, TBDC Building, Alalpatti, Darbhanga.
8. The District Programme Officer, District Health Society, TBDC Building, Alalpatti, Darbhanga.
9. The District Programme Officer, District Health Society, TBDC Building, Alalpatti, Darbhanga.
10. The Incharge Medical Officer, Primary Health Centre, Jalley, District- Darbhanga.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Adv.
Mr. Jai Kishor Poddar

For the Respondent/s : Mr. Vivek Anand Amritesh, AC to SC-28

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 30-01-2018

Heard Mr. Shivendra Kishore, learned senior counsel appearing on behalf of the petitioners and Mr. Vivek Anand Amritesh, learned Assisting Counsel to Standing Counsel No.28 for the State.

The prayer of the petitioners is two-fold, namely:



- (a) To direct the respondents to pay them the arrears of salary for the period 31.3.2015 to 11.8.2015; and
- (b) To direct the respondents to allow them to discharge the duties of Medical Officer following the contractual appointment vide order bearing Memo No.450 dated 24.3.2015 at Annexure-1 to the writ petition.

In the nature of the order which this Court proposes to pass it does not require a filing of counter affidavit.

Suffice it to say that these two petitioners were appointed by the District Health Society, Darbhanga on the post of Medical Officer vide order bearing Memo No.450 dated 24.3.2015, a copy of which is placed at Annexure-1 to the writ petition which engagement was for a period of one year. The petitioners submit that they gave their joining on 30.3.2015 before the Civil Surgeon, Darbhanga vide Annexures 2 and 2/1. The petitioners were posted at the Primary Health Centre, Jalley where they gave their joining on 31.3.2015 vide Annexures 3 and 3/1. According to the petitioners, they have discharged their duties to the satisfaction of the superior authority and although they have paid their remuneration after 11.8.2015 but their arrears of salary from 31.3.2015 until 11.8.2015 remains pending with the respondents.

Mr. Shivendra Kishore, learned senior counsel appearing



for the petitioners has invited the attention of this Court to the representations enclosed with the writ petition at Annexures 4 and 4/1 to submit that not only the petitioners prayed for payment of arrears of salary but they also prayed for their continuation but neither of the two prayers has been entertained by the respondents.

As I have observed that there is no counter affidavit and since the period of engagement has ended long before with no continuity order issued, in so far as the prayer of the petitioners for allowing them to continue on their respective post is concerned, this Court is not persuaded to issue any direction for the reason that the contractual period has ended and the nature of engagement was contractual. However, in so far as the payment of arrears of salary is concerned since according to the petitioners they have discharged their duties for the period in question they are certainly entitled for the arrears of salary. According to Mr. Kishore, it is the Civil Surgeon as the Member Secretary of the District Health Society, Respondent no.7 who is the appropriate authority for the purpose.

Having heard learned counsel for the parties and considering the nature of grievance which remains pending as of today, I deem it proper to direct the Civil Surgeon –cum- Member Secretary, District Health Society, Darbhanga, respondent no.7 to consider the prayer of the petitioners for payment of arrears of



salary for the period from 31.3.2015 to 11.8.2015 and dispose of the same within a period of three months from the date of receipt/production of a copy of this judgment.

The writ petition is allowed with the direction
aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.02.2018
Transmission Date	NA

