

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10520 of 2010

=====

Dr. Naresh Kumar, S/O Late Ram Charan Das, R/O Village- Arai Benipur, P.S.-
Daniawa, Distt.- Patna, At present Civil Surgeon, Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Health, New Secretariat Building, Patna.
2. The Principal Secretary, Department of Health, New Secretariat Building, Patna.
3. Under Secretary, Department of Health, New Secretariat Building, Patna.
4. Dr. Uma Shankar Madhup, S/O not Known to the Petitioner, Civil Surgeon, Saran at Chapra.

.... Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Rajeev Kumar Singh, Adv.
\		Mr. Niraj Kumar Singh, Adv.
For the Respondent/s	:	Mr. Chittaranjan Sinha, PAAG-2
		Mr. Shailendra Kumar, AC to PAAG-2

=====

CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 06-11-2018

Heard the parties.

The petitioner prays for quashing of his transfer order dated 26.06.2010 passed by the respondent no.3, the Under Secretary, Department of Health, whereby the petitioner was transferred to the post of Director, Field Demonstration Centre, Rajgir.

This writ petition was earlier heard by a coordinate Bench and allowed vide order passed on 04.08.2010. The petitioner was allowed to continue at Saran at Chapra where he was posted as Civil Surgeon.

The private respondent no.4 feeling aggrieved by the



judgment and order of the learned Single Judge went in appeal giving rise to LPA No.1485 of 2010 and which was allowed by the Division Bench on 27.09.2010, inter alia, on grounds that the judgment and order of the learned Single Judge was ex-parte and without notice to the private respondent.

On remand of the matter the private respondent appeared before this Court on 27.08.2018 to pray for engaging his counsel but the pleading on record does not confirm of any engagement.

When the matter is taken up today learned counsel for the petitioner and Mr. Shailendra Kumar, learned Assisting Counsel to PAAG-2 are present but there is no representation on behalf of the private respondent.

On query made from Mr. Shailendra Kumar, learned Assisting Counsel to PAAG-2 as to whether the cause of action yet survives for the writ petitioner and/or whether he continues to hold the post of Civil Surgeon, Saran at Chapra or has been transferred, it is after seeking instruction from the present Civil Surgeon, Saran at Chapra that he informs that the writ petitioner Dr. Naresh Kumar was transferred on 31st of March, 2011 to Darbhanga where he is currently working.

Transfer is an incidence of service and once it is taken its effect and the incumbent has joined his new place of posting at



Darbhanga this Court after lapse of eight years is not persuaded to examine the correctness of the transfer order as raised in this writ petition which has been rendered infructuous by passage of time.

The writ petition is disposed of accordingly.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14-12-2018
Transmission Date	NA

