

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7806 of 2016

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Yashwant Kumar Son of Late Rameshwar Paswan resident of village -
Barwadih, P.S. P.O. - Dumariya Gaya, District - Gaya.

... .. Petitioner

Versus

1. The State Of Bihar through the Principal Secretary, Department of Health,
Govt. of Bihar, Patna
2. The Executive Director, State Health Committee, Bihar, Patna.
3. The Regional Additional Director, Health Services, Patna Division, Patna.
4. The District Magistrate-cum-Chairman, District Health Services, Patna.
5. Incharge Medical Officer, Primary Health Centre, Shivsagar, District -
Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Yogesh Chandra Verma, Sr. Advocate Mr. Javed Aslam
For the Respondent/s	:	Mr. Mritunjay Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-04-2019

Heard learned Senior Counsel appearing for the
petitioner as well as Counsel appearing for the respondent State.

The petitioner was working as Block Manager on the
basis of contract. The contractual appointment of the petitioner is
dated 27.1.2010. The primary Health Center, where the petitioner
was working on contractual basis as Block Health Manager, was
inspected and during inspection various shortcomings and
irregularities were found in implementation of the objectives of the
National Rural Health Mission. The following
discrepancies/shortcomings were found:-



1. Some expired medicines were found in O.P.D. counters;
2. Advance attendance were found made by A.N.M. Renu Patel and Rosnawati Devi;
3. Kit of Malaria had expired in October 2015;
4. Computer, Printer and Scanner which were supplied 2 years back to the Centre were not installed;
5. 52 pieces expired adhesive tape were found in the store-room;
6. Un-fitted wheel chair was found kept in the store-rooms;
7. Payment register of JANANI BAL SURAKSHA SCHEME was not certified by the Medical Officer;
8. Cheques were issued against serial No. 568, 569, 581, 582, 583, 589, 591 and 592 without entering the names and address of the beneficiaries;
9. Internal and external cleanliness of the centre was found too poor and bad smell in bath room was found;
10. Small gate fitted in the eastern portion of the hospital premises was found open facilitating entry of unsocial elements in the hospital;
11. Board displaying medicine was found fallen;
12. Commode of the bath room of O.P.D. was found broken and its flash kept in the side in broken condition.

The petitioner was issued a show cause notice for the charges seeking his explanation for the said shortcomings. The same was responded to on 2.2.2016.

It is apparent from the show cause filed by the petitioner that he has claimed that he was not responsible for the allegations for which he was issued show cause notice.

It is submission of the learned Senior Counsel that the petitioner was only a Supervisor and the shortcomings found at the



Primary Health Center could not be attributed to him as duties were to be discharged by certain other persons. It is submitted that no reason has been assigned while rejecting show cause of the petitioner under order dated 19.8.2016. It is also submitted that having regard to nature of the allegation, for which the petitioner was at best be said to be sharing collective responsibility, the punishment is excessive and such an order having stigma could not have been passed in such casual manner as has been done in the instant case.

The petitioner has availed of the remedy of appeal against the order dated 19.8.2016 terminating his contractual employment and the same has also been rejected by State Health Society Bihar in its order dated 16.7.2018.

Learned Senior Counsel has referred to role and responsibility of Block Health Manager as contained in Annexure 7 to the supplementary affidavit filed by the petitioner to submit that the petitioner has not been enjoined with the responsibility for violation of which contractual appointment has been brought to an end.

Counsel for the State also draws attention of the Court towards the same Annexure 7 where in the role of Block Health Manager is assigned. It is clear responsibility of the petitioner



working as Block Health Manager to act accordingly for achieving the goals of National Rural Health Mission. The scheme also casts responsibility on the petitioner that he should ensure timeliness and ensure implementation of the scheme of the National Rural Health Mission. Submission of the petitioner that he did not have any responsibility in respect of allegations attributed to him therefore *prima facie* is unsustainable.

Counsel for the respondent State also referring to the petitioner's contract of implementation submits that Clause 4 thereof permits termination of contractual employment by giving notice of one month or pay for one month. Drawing attention of the Court towards the impugned order dated 19.8.2016 he points out that pursuant to one month notice the petitioner has been removed by order dated 19.8.2016 and therefore he cannot raise any grievance in respect of the action taken against him. The other submission made by Counsel for the State is that no constitutional or statutory issue is involved having regard to the contractual nature of employment of the petitioner.

This Court is in agreement with the submission made by State Counsel. The authorities have given one month notice to the petitioner and the action has been taken in terms of contractual appointment pursuant to which the petitioner was appointed as



Block Health Manager. The role and responsibility contemplated under the scheme annexed by the petitioner clearly shows that the petitioner being Block health Manager at the Primary Health Center was having responsibility to ensure that the goals of the National Rural Health Mission were achieved. The nature of shortcomings at the spot verification which was conducted of the primary Health Center makes is clear that there was various shortcomings in implementation of the National Rural Health Mission. Petitioner’s contention that he cannot be he held responsible is unsustainable.

In the circumstances, this Court does not find any reason to interfere with the action taken against the petitioner by the respondent authorities.

The writ petition is dismissed.

(Madhuresh Prasad, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
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