

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6618 of 2019

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Sanjeev Kumar, son of Late Maheshwar Sahani, resident of Village/Mohalla-
Laxmipur, P.S.- Madhepura, Dist.- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, New Secretariat, Patna.
2. The Director-in-Chief, Health Services, Bihar, Patna.
3. The Executive Director, State Health Society, Bihar, Patna.
4. The District Magistrate-cum-President, District Health Society, Madhepura.
5. The Civil Surgeon-cum-Member Secretary, District Health Society, Madhepura.
6. The In Charge Medical Officer, Pirmary Health Centre, Chausa, Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prahalad Kumar Bhagat, Advocate
For the Respondent/s : Mr. Ajay Bihari Sinha (GA-8)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 24-04-2019

The petitioner is aggrieved by an order dated 18.10.2017 passed by the Civil Surgeon-cum-Member Secretary, District Health Society, Madhepura whereby the contract with the petitioner for retaining him in service as Office Assistant has been directed to be terminated for his unauthorized and unexplained absence for four months and his refusal to explain the cause for such absence.

2. The learned counsel for the petitioner has submitted that petitioner was appointed as Office Assistant in



the year 2013 and was posted at Primary Health Centre, Gamahariya, Madhepura. Even though the tenure of service was purely contractual but such tenure was extendable and pursuant to such agreement between the employer and the employee, the services of the petitioner was extended regularly. In the year 2017, the petitioner was transferred from Primary Health Centre, Gamahariya, Madhepura to Primary Health Centre, Chausa, Madhepura.

3. It is the case of the petitioner that while he was going to Primary Health Centre, Chausa, he met with an accident on 17.07.2017 and was seriously injured. He made an online application for leave on 17.07.2017 only and thereafter also dispatched a hard copy of such leave application on 19.07.2017. The show cause notice was also replied by him, a copy of such reply having been brought on record by the petitioner in the present petition.

4. However, the order impugned reflects that no such leave application was furnished in the office of the Civil Surgeon-cum-Member Secretary, District Health Society, Madhepura nor any reply was given to the show cause



notice.

5. A representation against the aforesaid order has been filed by the petitioner before the District Magistrate, Madhepura which has yet not been acted upon.

6. If the signatory to the order impugned had not received any leave application nor the reply to the show cause notice, no interference could be made with the order directing for terminating the contract of the petitioner.

7. Nonetheless, the representation of the petitioner ought to be disposed off by the District Magistrate, Madhepura (respondent No. 4).

8. The petitioner is, under the aforesaid circumstances, directed to make a fresh representation before the District Magistrate, Madhepura (respondent No. 4) within a period of four weeks from today, who, on verifying the facts and taking all the circumstances into consideration, shall pass a reasoned order in accordance with law within a further period of six weeks thereafter.

9. Needless to state that any order in favour of the petitioner would be passed only if it is found that such leave



application was given by the petitioner and he had replied to the show cause notice. While passing the order, the District Magistrate, Madhepura shall also cause to be enquired as to what was the nature of injury suffered by the petitioner in the accident which had taken place on 17.07.2017.

10. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Shageer/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27/04/2019

