

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3692 of 2017

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Bhushan Kumar, Son of late Ramchandra Sharma Resident of Krishna Nagar,
Behind Kishan Cinema, P.S. Sohsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Health Department, Govt. of Bihar, Patna
2. The Executive Director-Cum-The Appellate Authority, State Health Society, Bihar, Parivar Kalyan Bhawan, Patna
3. The Civil Surgeon-Cum-Member Secretary, District- Health Society, Sheikhpura, Bihar.
4. The Additional Assistant Chief Medical Officer Cum-Additional Superintendent, Communicable Disease, District T.B. Centre, Sadar Hospital, Sheikhpura

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Amaresh Kumar, Advocate Mr. Bijay Kumar Pandey, Advocate
For the State	:	Mr. Ramadhar Singh, GP-25
For Respondent No. 2	:	Mr. K.K. Sinha, Advocate Mr. Shashi Shekhar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 27-08-2019

Heard learned counsel for the parties.

2. Petitioner is seeking quashing of an order dated 29.08.2016 (Annexure-9) whereby the Civil Surgeon cum Member Secretary, District Health Society, Sheikhpura has decided not to extend the petitioner's contract as Senior Dot Plus-cum-TB/HIV Supervisor and accordingly his service has been dispensed with.

3. It appears that the petitioner had preferred an appeal against the said order which has been dismissed by the Executive Director, State Health Society, Bihar by an order dated 16.11.2018.



Since the said order was passed during pendency of this writ application, an application seeking amendment in the writ petition has been filed through IA No. 01 of 2019 so as to challenge the order of the appellate authority dated 16.11.2018.

4. Considering the fact that the order of the Appellate Authority arises out of an action, which is under challenge in the writ application, I.A. No. 01 of 2019 is allowed. The petitioner is thus allowed to challenge the order dated 16.11.2018, passed by the Appellate Authority. The averments made in I.A. No. 01 of 2019 and the documents annexed thereto shall form part of the writ application.

5. From the pleadings on record, it appears that the certain basic facts, relevant for adjudication of the present case, are not in dispute. The petitioner was selected for the post of Senior Dot Plus-cum-TB/HIV Supervisor for Sheikhpura district by State Health Society, Bihar on contractual basis. The contract of the petitioner was extended from time to time by the competent authority. It appears that certain complaints were received by the authorities including a complaint from one Ranjeet Kumar MDR-Dots Provider alleging that the petitioner had taken certain money from him illegally. A show cause notice was issued to the petitioner on 22.07.2016. It appears that a committee was



constituted to enquire into various allegations received against the petitioner. The petitioner participated in the enquiry before the Committee. The Committee found those allegations against the petitioner to be correct. It was in the aforesaid background that a decision was taken not to extend the petitioner's contract.

6. Learned counsel appearing on behalf of the petitioner has submitted that the action of the respondents is *malafide*. He has drawn my attention to the statement made in paragraph-12 of the writ application to submit that it is because the petitioner is on inimical terms with respondent no.3 (wrongly typed as respondent no. 2) that his contractual appointment has been allowed to terminate. According to the petitioner, respondent no. 3, who was earlier posted as Deputy Superintendent at Sheikhpura and is a permanent resident of the district, runs a private clinic in the name of his wife and used to pressurize the petitioner to refer patients to his clinic and since the petitioner refused to oblige, he has been wrongly framed with false allegations.

7. It is rightly said that it is easier to make an allegation of *malafide* than to make it out. There is no foundational basis neither specifically pleaded nor proved for the petitioner to establish case of *malafide* against respondent no. 3.



8. A counter affidavit has been filed on behalf of State-Respondents. It has been stated, *inter alia*, in the counter affidavit that the petitioner had filed a complaint before the Lokayukta making certain false allegations against respondent no. 3.

9. Be that as it may, considering the circumstance that the petitioner's appointment was not on permanent basis, rather on contractual basis, and he was given an opportunity of hearing by a committee constituted to enquire into certain serious allegations against the petitioner, which have been found to be correct by the Committee, I do not find any reason to interfere with the impugned action.

10. This writ application is accordingly dismissed. The petitioner shall, however, be at liberty to apply for payment of his dues before the appropriate authority, which must be cleared without any delay, preferably within two months from the date of receipt of such application.

(Chakradhari Sharan Singh, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.09.2019
Transmission Date	NA

