

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20201 of 2019

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Arun Kumar Ram Son of Sri Ramautar Ram, Resident of Village-bangra Ujjain, Post Office Miaka Bhatkan, Police Station Ander, District Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, New Secretariat Building, Bailey Road, Patna-800001.
2. The Director-in-Chief, Disease Control, Health Services, Government of Bihar, New Secretariat Building, Bailey Road, Patna-800001.
3. The Regional Additional Director, Health Services, Saran Pramandal, Saran.
4. The District Magistrate, Siwan.
5. The Civil Surgeon-Cum-Chief Medical Officer, Siwan District Siwan.
6. Harendra Prasad Son of Late Sheoji Prasad Resident of Village and Post Office Naini, Police Station Muffasil, District Siwan.
7. Vinod Kumar Verma. Son of Late Birendra KUMar Verma. Resident of Village Barhan Gopal, Police Station Muffasil, District Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Nath Dubey
For the Respondent/s : Mr.Mujtabaul Haque (GP-12)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 19-11-2019 Heard learned counsel for the parties.

2. The petitioner has put to challenge an order dated 05.08.2019 (wrongly typed as 05.08.2009 in the first paragraph of the writ application), passed by the Regional Additional Director, Health Services, Saran, whereby he has cancelled an order dated 28.06.2019, relating to the petitioner's transfer from District Malaria Office, Siwan to the office of the Civil Surgeon, Siwan. He has recorded in his order dated 05.08. 2019 that the



Civil Surgeon did not properly follow the procedure/guidelines laid down by the Directorate of Health Service in letter No. 958(4) dated 31.05.2013 and letter No. 714(4) dated 22.06.2018 relating to transfer of a person in the cadre of Clerk.

3. Learned counsel for the petitioner has attempted to convince this Court that the Regional Deputy Director did not have any jurisdiction to interfere in the matters of transfer, which was in exclusive domain of the Civil Surgeon. This is to be noted that some of the employees had approached this Court by filing CWJC No. 14782 of 2019 against posting of the petitioner in Civil Surgeon Office on the ground that his posting in Civil Surgeon office was a kind of promotion. The writ application being CWJC No. 14782 of 2019 was disposed of by an order dated 25.07.2019 with a direction to the petitioners of that case to make a representation before the Civil Surgeon-cum-Chief Medical Officer, detailing their grievances. It transpires from Annexure-5 of the writ application that the Civil Surgeon, Siwan had written a letter to the Director, Health Services, Government of Bihar, justifying posting of the petitioner on the ground that his appointment was on the basis of recommendations made by the Bihar Public Service Commission and he was confirmed in service, whereas the



persons, though senior to the petitioner were not confirmed in service. It is evident from the facts noted above that immediately after the order of this Court dated 25.07.2019, the Regional Deputy Director had come to the conclusion that the petitioner's positing in Civil Surgeon office was in violation of the letters dated 31.05.2013 and 22.06.2018 as noted above. It is a different matter that the Civil Surgeon, in his subsequent letter addressed to the Director-in-Chief, Health Services had justified such posting of the petitioner.

4. On perusal of the impugned order dated 05.08.2019, it transpires that the violation of the procedure prescribed under the two letters dated 31.05.2013 and 22.06.2018 though has been mentioned, but it does not refer to the specific procedure prescribed in the said letters, which was violated while issuing the order of transfer dated 28.06.2019 by the Civil Surgeon, Siwan.

5. In the background of facts as noted above, this application is disposed of with a direction that let the representation filed by the petitioner, which is at Annexure-7 be considered and disposed of. If it is found that the petitioner's posting was in violation of the procedure laid down in the two letters dated 31.05.2013 and 22.06.2018 as noted above, the



Director-in-Chief, Health Services, Government of Bihar shall be required to refer the part of the procedure, which was violated by the Civil Surgeon, while posting the petitioner in the office of the Civil Surgeon, Siwan. The decision must be taken within two months from the date of receipt/production of a copy of this order.

6. This disposes of the application.

(Chakradhari Sharan Singh, J)

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