

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14278 of 2018

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Amrendra Kumar Jha S/o Shri Devendra Jha, Resident of Barwa Ojha, P.O.-
Barwa, P.S.-Jogapatti District-West Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Department of Health Government of Bihar, Patna.
3. The Director in Chief, Health Services, Bihar, Patna.
4. The Additional Director, Health Services, Bihar, Patna.
5. The Regional Additional Director, Health, Tirhut Division, Muzaffarpur.
6. The District Magistrate, West Champaran, Bettiah.
7. The Civil Surgeon Cum Chief Medical Officer, Bettiah, West Champaran.
8. The Director-in-Chief Family Welfare, Maternity-infants Health and Nursing Health Services, Bihar,
9. The Director-in-Chief Disease Control Services, Bihar, Patna.
10. Medical Officer Incharge, Primary Health Centre, Narkatiyaganj.
11. Rajan Kumar S/o-not Known, Presently Posted as-Clerk at Civil Surgeon Office, Bettiah, District-West Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amit Pandey
For the Respondent/s : Mr.Ramadhar Singh -Gp25

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

7 18-06-2020 Heard learned counsel for the parties.

The petitioner, at the relevant point of time, was posted as Clerk in the office of District Drug Inspector, Bettiah. By an order dated 15.06.2018, he was transferred to Primary Health Centre Harnatand in the same district by an order issued by the Civil Surgeon-cum-Chief Medical Officer, West Champaran, Bettiah. The petitioner is said to have submitted his



representation against his transfer. It his case that soon before issuance of the said order dated 15.06.2018, the petitioner was posted in the office of Drug Inspector, Bettiah, where he had joined on 15.06.2018 only and there was no justification for the respondent to again transfer to a different place. It is the petitioner's case that the action of respondents in transferring him by order dated 15.06.2018 is arbitrary and unreasonable. It also appears that a subsequent order was issued on 29.06.2018, whereby the order dated 15.06.2018, transferring the petitioner to Harnatand was modified and he was posted at Primary Health Centre, Narkatiyaganj.

It is specific case of the petitioner that he had not submitted his joining subsequent to the orders dated 15.06.2018 and 29.06.2018. He had represented before the authorities and when his grievance could not be heard, he approached this Court by filing present writ application.

This application was taken up on 09.08.2018, when this Court had directed the parties to maintain status-quo as on that date. The Court noticed the submission of the petitioner that he has been transferred thrice in one month and in retaliation to his representation against the order of transfer, he had been re-transferred.



Subsequently, when the matter was taken up on 29.08.2018, this Court stayed the orders dated 15.06.2018 and 22.06.2018.

It transpires from the record that as according to the petitioner, the interim order passed by this Court, staying the order of transfer was not being obeyed by the respondents, he filed a contempt petition, giving rise to MJC No.4451 of 2018. The said MJC No. 4451 of 2018 came to be disposed of with the following order dated 31.07.2019:-

“It is very piquant situation that the petitioner submits that he has not been allowed to join in the office of the Civil Surgeon-cum-Chief Medical Officer, Bettiah, West Champaran, but in contra, stand has been taken by the State that in fact the petitioner is not coming forward and give his joining.

In order to resolve the dispute of joining and non-joining, let the petitioner give his joining to the Collector, Bettiah, West Champaran, who in turn, pass necessary order for joining of the petitioner in the office of the Civil Surgeon-cum-Chief Medical Officer, Bettiah, West Champaran and accordingly, the petitioner would be posted at the appropriate place. The



authority concerned will also ensure that admitted dues should be paid to the petitioner without unnecessary delay. The issue of payment of rest salary will be decided in the main writ petition.

If the petitioner is not allowed to join the post, he will be at liberty to file an affidavit for revial of the contempt petition. If such an affidavit is filed, the contempt petition will be revived.

With the aforesaid observations and directions, the contempt petition is disposed of.”

It is apparent from the said order dated 31.07.2019 that on the one hand, the petitioner was raising a grievance that he was not being allowed to submit his joining in the office of Civil Surgeon-cum-Chief Medical Officer, Bettiah, the said respondent took a plea before the Court that the petitioner was not coming forward to submit his joining. Considering the rival stand taken on behalf of the petitioner and the State of Bihar, this Court passed the aforesaid order on 31.07.2019 as quoted above.

In compliance of the order of this Court dated 31.07.2019, the District Magistrate has passed an order dated



21.10.2019, which has been brought on record by way of Annexure to I.A. No. 2 of 2020 filed by the petitioner during the lockdown through *e-filing*.

From the order passed by the Collector dated 21.10.2019, it appears that the Collector had asked the petitioner to submit his joining in the office of Civil Surgeon-cum-Chief Medical Officer, Bettiah within two days. The Civil Surgeon Cum-Chief Medical Officer has been directed by the said communication dated 21.10.2019 to allow the petitioner join post.

So far as payment of salary is concerned, the District Magistrate has directed the Civil Surgeon-cum-Chief Medical Officer to take a decision on the basis of attendance register.

In view of the decision, which has been taken by the District Magistrate, Bettiah, learned counsel for the petitioner has submitted that his grievance has substantially been redressed. He, however, argued that he is entitled to salary from the period 15.06.2018, till the date he was actually allowed to join in the office of the Civil Surgeon-cum-Chief Medical Officer, Bettiah.

That being an admitted fact that the impugned order dated 15.06.2018 was specifically stayed by this Court, in my



opinion, the petitioner would be entitled to payment of salary as if he was working in the place of earlier posting.

This application is, accordingly, disposed of with a direction to ensure payment of salary to the petitioner within a period of four months from the date of receipt/production of a copy of this order, for the period in question.

(Chakradhari Sharan Singh, J)

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