

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 6922 of 2020

Dr. Kundan Kumar @ Kundan Kumar, Aged about 43 Yrs, Male, Son of Sri Baidynath Pd. Singh, Resident of Mohalla - Ward No. 28, Lohiyanagar, P.S.- Town (Lohiya Nagar O.P.), District- Begusarai.

... .. Petitioner

Versus

1. The State of Bihar through Principal Secretary, Health Department, Bihar Vikash Bhawan, Bailey Road, Patna.
2. The Director, Health Services, Vikash Bhawan, Bailey Road, Patna.
3. The Executive Director, State Health Society, Bihar, Sheikhpura, Bailey Road, Patna.
4. The District Magistrate cum Chairman, District Health Society, Begusarai.
5. The Civil Surgeon-Cum-Member-Secretary, District Health Society, Begusarai.
6. Dentist, Referral Hospital, Manjhaul, Begusarai.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Krishna Kant Singh, Advocate Mr. Chandan Kumar Kashyap, Advocate
For the Respondent/s	:	Mr. Pankaj Kumar (SC12) Mr. Kamlesh Kishore, AC to SC-12

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL JUDGMENT

Date : 18-02-2021

Heard counsel for the parties.

2. The petitioner has filed this writ application for the following reliefs:-

(I) For issuance of a writ in the nature of certiorari for quashing the order of Civil Surgeon-cum-Member Secretary, District Health Society, Begusarai, vide memo no. 168, dated 19.2.2020 (Annexure-5) by the effect of which petitioner has been terminated with immediate effect from his



service without any prior notice or opportunity to show cause.

(II) For issuance of writ in the nature of mandamus or any other appropriate writ directing the Respondent authorities to give all consequential reliefs to the petitioner upon restoration of the service of the petitioner.

(III) For issuance of an appropriate and interim writ, order or direction for allowing the petitioner to resume services in Referral Hospital, Manjhaul, Begusarai during the pendency of the instant writ application.”

3. Short fact of the case is that vide letter no. 3418 dated 6.1.2006, the petitioner was appointed on the post of Dentist in Referral Hospital, Manjhaul, District – Begusarai on contract basis pursuant to an agreement, which was made between the parties.

4. It is the case of the petitioner that the service of the petitioner on the post of Dentist was extended from time-to-time, but on 19.2.2020, vide letter no. 169, the Civil Surgeon-cum-Member Secretary, District Health Society, Begusarai terminated the petitioner from his service without giving any show cause and in violation of conditions of the agreement made between them, which is gross violation of the principle of natural justice.

5. In this case, a counter affidavit has been filed on behalf of respondent no. 5, in which, it has been stated that



appointment of the petitioner was made on the post of Dentist on contract basis till regular appointments are made by the Bihar Public Service Commission. In paragraph – 7 of the counter affidavit, it has been stated that as per recommendation of Bihar Public Service Commission, 543 Dentists have already been appointed and this petitioner does not find place in the said appointment and thereafter, the department has taken decision to terminate all contractual appointed Dentists.

6. In response thereof, learned counsel for the petitioner submits that till date, no regular appointment has been made against the post, on which, the petitioner was functioning.

7. However, counsel for the respondent/State submits that all the regular appointed Dentists have already been posted against sanctioned posts and in Referral Hospital, Manjhaul, Begusarai, where petitioner was working on contract basis, was not a sanctioned post.

8. Law is well settled that in matters of concluded contract the parties *per se* are bound by the terms and conditions of the contract and unless there is some breach of any fundamental right of a citizen it is not for the Court to exercise its power under writ jurisdiction because writ jurisdiction would not enforce the terms of the contract. Contractual appointment does not give any



right, interest or benefit of a regular appointment. For any breach of agreement, the remedy for him would lie under common law and not under Article 226 of the Constitution of India.

9. In the aforesaid facts and circumstances, the writ petition stands dismissed. However, the petitioner is at liberty to move before the appropriate forum for redressal of his grievance. It is made clear that any finding of this Court will not prejudice the case of the petitioner.

10. With above observation, the writ petition is dismissed.

(Prabhat Kumar Singh, J.)

Anay

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.02.2021
Transmission Date	N/A

