

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1133 of 2021

Dr. Firoz Akhtar Son of Late Md. Zafar Imam resident of at and P.O.-
Fatehpur, P.S.- Fatehpur, District- Gaya, presently posted as Ayush doctor in
APHC Chauri, P.H.C. Rahika, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Pincipal Secretary, Health Department, Govt. of Bihar, Patna
3. The State Health Society, Bihar, Patna through its Executive Director,
4. The Executive Director, State Health Society, Bihar, Patna
5. The Member Secretary, District Health Society-cum-Chief Medical Officer,
Madhubani

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Prashant Sinha, Advocate
For the State Health Society		Mr. Kishore Kumar Sinha, Advocate
For the State		Mr. Vasant Vikash, AC to GP 12

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date : 28-04-2021

Heard learned counsel for the petitioner and learned
counsel for the respondents through video conference. Learned
counsel for the petitioner has filed an undertaking that all
defects pointed out by the stamp reporter shall be removed, and
compliance with the conditions of the notices of this Court with
regard to acceptance of e-filing shall be made, without delay
immediately upon resumption of normal physical functioning of
the Court, and in any event within one month thereof.

2. The present writ petition has been filed for the
following reliefs as formulated by the petitioner--

*(i) For necessary direction upon respondent
authorities to transfer the petitioner as Ayush
(Unani) doctor from the district of Madhubani to
the district of Gaya as the wife of the petitioner is*



working as Block Teacher in the Fatehpur Block of Gaya district, the petitioner had opted for his posting in the district of Gaya in terms of the advertisement made by the respondents for the selection, he is a heart patient and a pacemaker implant has been made in the body of the petitioner.

(ii) For holding that the respondents have acted in an arbitrary and illegal manner by not giving posting on the basis of the choice of the petitioner and on the basis of husband and wife posted in the same district while this benefit was made available to other doctors subsequently after their joining.

(iii) For holding that the arbitrariness of the respondents towards the petitioner is apparent that when the petitioner was posted in the district of Vaishali and he represented for his posting in the district of Gaya on the basis of his choice and also on the basis that his wife is working as Block teacher in the district of Gaya, he was posted in the district of Madhubani, which is at much farther distance than Vaishali.

(iv) For any other direction, which your Lordship may deem fit and proper in the facts and circumstances of the case."

3. Learned counsel for the petitioner states that he has been working as Ayush (Unani) doctor in the District of



Madhubani and has been requesting for his transfer to the District of Gaya where his wife is working as Block teacher. It is stated that representations were filed as far back as on 08.05.2012, 09.05.2013 and 09.08.2013 (Annexure-10 series), but however the same were not considered. Recently, the petitioner has been diagnosed with heart ailment and it has become expedient that he be transferred to the place of posting of his wife for proper care of his health as he is also a disabled person.

4. Learned counsel for the respondent-State Health Society, Bihar, Patna invites reference to paragraph 4 of its counter affidavit to submit that the past representations of the petitioner could not be considered in absence of any transfer policy for contractual employees. It is stated that such provision has now been made in terms of proposal no. 29/19 in the 29th General Body Meeting of the respondent-Society. As such, the petitioner would be well advised to file a representation to the Executive Director, State Health Society, Bihar, Patna (respondent no.4) for consideration of his request.

5. Having regard to the nature of the prayer of the petitioner and the stand of the respondent State Health Society, the writ petition is disposed of, granting liberty to the petitioner



to file a fresh representation before Executive Director, State Health Society, Bihar, Patna (respondent no.4) within a period of three weeks from today. If any such representation is filed, the same shall be considered and disposed of in accordance with law after grant of an opportunity of hearing to the petitioner, within a further period of eight weeks thereafter. To facilitate disposal, the petitioner shall furnish his mobile number and email ID to the respondent no. 4 within a week from today.

6. It is made clear that in view of the ongoing Covid-19 pandemic, any correspondence between the parties may be made through email and the petitioner shall be at liberty to request for hearing through video conference.

7. Office shall follow-up to ensure that all defects are removed and compliance with the notices of this Court are made by the petitioner within the stipulated time provided in para 1 hereinabove, failing which the matter shall be brought to the notice of this Court.

(Vikash Jain, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	--
Uploading Date	29.04.2021
Transmission Date	--

