

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25291 of 2019

=====

Bindu Kumar S/o Son Lal Sah Resident of Village- Sirkhandi, P.s.- Sugauli,
District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department,
Govt.of Bihar, Patna
2. The Director in Chief Health Services, Bihar
3. The Civil Surgeon -cum- Chief Medical Officer, East Champaran, Motihari,
Incharge Medical Hospital
4. In-Charge Medical Officer Primary Health Centre, Bankatwa, P.s.-
Bankatwa, District- East Champaran

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Javed Aslam
For the Respondent/s : Mr.Pankaj Kumar (Sc12)

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 07-01-2021

Re: I.A. No. 01 of 2020

Heard learned counsel for the petitioner and the
respondents on this interlocutory application.

This Interlocutory application has been filed for
quashing the order dated 09.03.2020 passed by the Civil
Surgeon, East Champaran at Motihari submitting that during
pendency of this writ application and COVID-19 pandemic, the
petitioner's suspension has been revoked withholding one
increment with non-cumulative effect in the light of the report
of the Three Men Committee. The order also refers to treat the
petitioner on duty during suspension period and payment of



salary as per Rules.

For the averments made in this application, I.A. 01 of 2020 is allowed and the same is to be treated as part of the main writ application.

C.W.J.C. No. 25291

Heard the parties.

This writ application has been preferred by the petitioner for seeking the following relief:

AA. Writ in the nature of CERTIORARI or any other appropriate writ/s, order/s, direction quashing the following:-

i. The order as contained in Memo No. 4059 dated 26.10.2019 passed by Civil Surgeon-cum-Chief Medical Officer, East Champaran, Motihari, the respondent no. 2 intimating the Incharge Medical Officer, Primary Health Centre, Bankatwa, East Champaran, Motihari intimating him that in the light of letter referred to after consulting the Government Pleader in the matter relating to purchase of medicine/Impleaments, instruments Sub-Incharge for the financial years 2015-16 and 2016-17 for Primary Health Centre, Bankatwa in view of the legal advise and enquiry report of Enquiring Officer the aforeaid officer was permitted to file FIR.



ii. The order contained in Memo No. 1013 dated 24.04.2017 issued by Civil Surgeon-cum-Chief Medical Officer, East Champaran, Motihari, the respondent no. 2 the petitioner was put under suspension under Rule 9 (1) (A) of the Bihar Government Servant (Classification and Appeal) Rules, 2008 for not working as per rules in the matter relating to government work of purchase and that during the period of suspension as per Rule 10 (1) of the Rules he was entitled to subsistence allowance and during suspension his headquarter to be Primary Health Centre, Mehshi.

B.A Writ in the nature of MANDAMUS or other appropriate writ/s, order/s, direction/s commanding the Respondents for the following:-

i. To treats the order contained in Annexure-12 and 1 to be nullity and non-existence in the eye of law.

ii. To treat the order of suspension contained in Annexure-1 to have to come and to an end or in alternative to revoke the same.

Iii. To direct the respondents to allow the petitioner to work as clerk at Primary Health Centre, Ghorasahan.

iv. To allow the petitioner to discharge his duties as a clerk at Primary Health Centre, Ghorasahan.



v. To restraints the Respondents from giving effect to the order contained in Annexure-12 to the petitioner.

vi. To ya the entire amount to the petitioner during his suspension minus the subsistence allowance.

C. To any other relief/s which the petitioner is found entitled to.

Learned counsel for the petitioner submits that the petitioner was initially appointed on 4th January, 2008 after fully complying with the procedure meant for appointment and joined at Primary Health Centre, Ghorasahan and started discharging his duties with full efficiency and integrity. In due course of time, the authorities finding his services to be satisfactory confirmed the same. While the petitioner was working at Ghorasahan for two year he was deputed to work as clerk at Bankatwa in the District of East Champaran, Motihari. All of a sudden by an order contained in Memo no. 1013 dated 24.04.2017 was put under suspension as he had not discharged his duties as per Rules for purchase work. During period of suspension his headquarter was made Priminary Health Centre, Mehshi and he was directed to have his subsistence allowance under Section 10 (1) of the Rules. He further submits that respondent no. 3 constituted a Three Member Committee for



enquiring into purchase and storage of Primary Health Centre, Bankatwa with direction to submit the report by 17.01.2017. The Committee submitted its report on 09.02.2017 finding some irregularity in issuing purchase orders. He further submits that on receipt of the report, respondent no. 3 on 10.02.2017 directed the petitioner to file a show cause within three days otherwise adverse order will be taken. The petitioner submitted his explanation on 23.02.2017. Thereafter, on 18.05.2017 respondent no. 3 intimated the petitioner about appointment of one Doctor Sravan Kumar Paswan as the Enquiry Officer and Sri Rajeev Kumar clerk of the office of Civil surgeon was authorized to place the records. The letter referred to four charges. The Enquiry Officer by Memo no. 169 dated 27.06.2018 submitted his report to the Civil Surgeon holding that after inquiry the complicity of the petitioner was not found to be there. The Civil Surgeon again did not satisfy with the second enquiry report and constituted a committee under the Chairmanship of Assistant Chief Medical Officer, East Champaran with two more persons to enquire about the allegation. On 20.04.2019, the Assistant Chief Medical Officer-cum-Enquiry Officer submitted its report denying the complicity of the petitioner in the aforesaid case. The petitioner on



numerous occasion submitted several applications to revoke the suspension as the last two enquiry reports did not find the petitioner to be guilty. Thereafter, a Three Men Committee was constituted to enquire into the matter and the Committee in its report also did not find fault on the part of the petitioner. Learned counsel for the petitioner lastly submits that after moving from pillar to post when the grievance of the petitioner was not redressed finding no other way, this writ application has been filed.

On the other hand, learned counsel for the respondents submits that during financial year 2015-16 several irregularities were found in purchase of medicine and medical items at P.H.C. Bankatawa and defalcation of government fund. The writ petitioner was put under suspension in this matter of illegal work. The departmental proceeding against the petitioner was initiated framing charge in Prapatra 'K'. The petitioner was asked show cause. The petitioner filed his show cause. On receipt of the show cause, the matter was again got enquired. In the light of Second Enquiry Report, the departmental enquiry was concluded and suspension of the petitioner was revoked vide order contained in memo no. 962 dated 09.03.2020. The petitioner has been posted at P.H.C., Narkatiya Bazar,



Chhauradano.

Having heard the parties, in my view, as all the Three Enquiry Committee found absolutely nothing against the petitioner rather the enquiry revealed non-complicity of the petitioner. Accordingly, the impugned order, as contained in Memo no. 4059 dated 26.10.2019 and Memo no. 1013 dated 24.04.2017 are hereby quashed and this writ petition is allowed.

(Anjani Kumar Sharan, J)

devendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.01.2021
Transmission Date	NA

