

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.2 of 2020

In
Civil Writ Jurisdiction Case No.13946 of 2019

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1. Smt. Ranjana Srivastava Daughter of D.B. Srivastava Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
 2. Taramani Ekka, D/o P. Ekka, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
 3. Manju Kumari, D/o Surendra Kumar, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
 4. Ambika Kumari, D/o Motilal, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
 5. Rashmi Srivastava, D/o Late J.K. Srivastava, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).

... .. Petitioners.

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
3. The Chief Medical Director, East Central Railway, Hajipur, P.O.- Digghi Kalan, P.S.- Hajipur, District- Vaishali at Hajipur, Pin Code- 844101 (Bihar).
4. The Divisional Railway Manager, East Central Railway, Danapur, P.O.- Khagaul, P.S.- Khagaul, District- Patna, Pin Code- 801105 (Bihar).
5. The Senior Divisional Personnel Officer, East Central Railway, Danapur, P.O.- Khagaul, P.S.- Khagaul, District- Patna, Pin Code- 801105 (Bihar).
6. The Medical Director, Central Hospital, East Central Railway, Karbighayia, Patna (Bihar).
7. Madhumati Kumari, D/o Babu Lal Prasad, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
8. Nirmal Kumar Swatantra, D/o Paul Chatri, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
9. Mina Sinha, D/o R.C. Sinha, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).



10. Urmila Kumari, D/o Late Sita Ram, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
11. Sarita Kumari, D/o Susheet Kumar, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
12. Rina Kumari, D/o Bengali Ram, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
13. Anu Rana, D/o S.N. Sharma, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
14. Kiran Kumari, D/o Dukhi Prasad, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Nction, Patna, Pin Code- 800001 (Bihar).
15. Muni Kumari, D/o Sharvan Pandit, Nursing Sister/ Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbighayia Junction, Patna, Pin Code- 800001 (Bihar).

... .. Opposite Parties.

Appearance :

For the Petitioners	:	Mr. Munna Pd Dixit (M.P. Dixit), Advocate. Mr. S.K. Dixit, Advocate. Mr. S.K. Chaudhary, Advocate. Ms. Swastika, Advocate.
For the Opposite Parties :		Mr. Sujeet Kumar Singh, C.G.C.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 31-10-2023

The present Civil Review Petition is filed for reviewing the order/judgment dated 29.11.2019 passed in C.W.J.C. No.13946 of 2019.

2. The review petitioners, namely, Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava are in the Parent Organization-Central



Hospital and respondent nos.7 to 15, namely, Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari are stated to have transferred to Central Hospital on their own from different Hospitals. Their past services have been counted for the purpose of seniority in the Central Hospital, in the cadre of Nursing Sister, resulting in affecting the rights of the review petitioners Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava (five review petitioners), whose parent's organization is Central Hospital. In this regard, on 26.03.2014 provisional seniority list was prepared wherein the review petitioners Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava have been placed below Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari. Thus, Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava being aggrieved by their ranking and placing them below Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari, have approached the Central



Administrative Tribunal in filing Original Application No.783 of 2014 and it was allowed on 14.12.2018. Union of India and others feeling aggrieved by the order of Central Administrative Tribunal presented C.W.J.C. No.13946 of 2019 and it was allowed by reversing the order of the Central Administrative Tribunal dated 14.12.2018 passed in Original Application No.783 of 2014. Hence, the present Civil Review Petition on behalf of Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava (five review petitioners), who are Nursing Sisters and who have been placed below Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari.

3. Learned counsel for the review petitioners vehemently contended that Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari, whose services have been drafted to Central Hospital at their own request, therefore, they are not entitled to count past services. By virtue of appointment by transfer of Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni



Kumari, the rights of the review petitioners have been affected. This Court has not appreciated the fact while deciding C.W.J.C. No.13946 of 2019. It is submitted that documents produced along with the counter affidavit in C.W.J.C. No.13946 of 2019, it is evident that appointment by transfer to Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari, are at their own request. Therefore, they are not entitled to have the benefit of counting past services by placing over and above the review petitioners Smt. Ranjana Srivastava, Taramani Ekka, Manju Kumari, Ambika Kumari and Rashmi Srivastava (five review petitioners).

4. It is necessary to reproduce paragraphs 24 and 25 of the order/judgment dated 29.11.2019 passed in C.W.J.C. No.13946 of 2019. It reads thus:

“24. Learned counsel appearing for the Respondents 1st set has put much stress on the fact that the transfer order of the Respondents 2nd set clearly shows that they were transferred on their own request. In this regard, the petitioner has clarified that there was a clerical mistake while issuing the transfer letters. On perusal of those transfer letters, we find that though it is mentioned that the transfer is on own request but, it is also mentioned that postings will be on the same post,



same pay band and grade pay. The transfer orders would clearly make it evident that they were made in an administrative interest on optional basis.

25. Furthermore, it has been pointed out by learned counsel for the petitioners that in case of transfer on own request, applications are to be filed compulsorily, in form D-2, but none of the Respondents of the Respondents 2nd set had submitted his application in form D-2. Since the transfer of the Respondents 2nd set was not made on own request, the Tribunal erred in law in allowing the original application and directing the petitioners to revise seniority list by placing those candidates who had come on own request at the bottom of their seniority list.”

5. The aforementioned paragraphs answer the review petitioners’ contention to the extent that there was no request transfer insofar as Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari. In fact, there is format for the purpose of request transfer from one unit to other unit. Such format is not forthcoming in the records so as to analyze that Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari were transferred at their request. However, on the other hand, it has



to be drawn that it was in the public interest. While passing order of appointment by transfer of the aforementioned persons to Central Hospital in the cadre of Nursing Sister, there is no iota of material information like a specific format for request transfer. Therefore, whatever the words used in the respective documents to the extent that such transfer was at the request of Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari are held in the public interest.

6. Learned counsel for the review petitioners submitted that Madhumati Kumari, Nirmal Kumar Swatantra, Mina Sinha, Urmila Kumari, Sarita Kumari, Rina Kumari, Anu Rana, Kiran Kumari and Muni Kumari have not given any option, therefore, one has to draw inference that their appointment by transfer in the Central Hospital is at their request.

7. The aforementioned contention cannot be examined in the Civil Review Petition, since paragraphs-24 and 25 answers the review petitioners' contention. Hence, review petitioners have not made out a case so as to recall the order/ judgment dated 29.11.2019 passed in C.W.J.C. No.13946 of 2019.



8. The Hon’ble Supreme Court in the case of **S. Murali Sundaram vs. Jothibai Kannan and Ors. reported in 2023 SCC Online SC 185** elaborately considered scope of Review Petition with reference to Order 47 Rule 1 and Section 114 of CPC. The principles are aptly applicable to the case in hand.

9. Accordingly, the present Civil Review Petition stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.11.2023.
Transmission Date	NA

