

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2538 of 2020

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Smt. Ramawati Devi, Wife of Sri Janardan Sharma, Resident of Village-Ghusiyakala, Police Station-Bikramganj District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Government of Bihar, Patna.
2. The Director Health Services, Government of Bihar, Patna.
3. The Civil Surgeon, Cum Chief Medical Officer, Rohtas at Sasaram.
4. The Incharge Medical Officer, Primary Health Centre, Nokha.
5. The Under Secretary, Lokayukt Office, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dhaneshwar Prasad Gupta, Advocate
For the State	:	Mr.Ajay Behari Sinha (GA8)
		Ms. Seema Ghajala, AC to GA-8

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 08-12-2023

Heard learned counsel for the petitioner and learned counsel for the State.

2. The present application has been filed for quashing the order contained in Memo No. 2958 dated 30.09.2019, issued by the Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram (Annexure-11 to the writ petition) and the order contained in Memo No.341, dated 12.12.2019, passed by the In-charge, Medical Officer, Primary Health Centre, Nokha, Rohtas (Annexure-13 to the writ petition).

3. Learned counsel for the petitioner submits that the petitioner was appointed to the post of ANM on 28.09.1985 and



was working in the Primary Health Centre, Nokha, Rohtas on the basis of his basic qualification of Metric and the certificate issued by the Bihar Nurses Registration Council. During her service, a complaint has been filed alleging therein that the matriculation certification of the petitioner is not genuine. Thereafter, the Civil Surgeon has requested the Secretary, the Bihar School Examination Board, Patna to enquire about the genuineness of the matriculation certificate of the petitioner. Upon verification, the concerned section of the Bihar School Examination Board, Patna found the certificate of the petitioner genuine. Therefore, the complaint filed against the petitioner was dropped. The matriculation certificate of the petitioner was verified by the Bihar School Examination Board, Patna twice on the request of the Civil Surgeon, Rohtas, but the same was found genuine.

4. Learned counsel for the petitioner further submits that the petitioner has received a letter from the Civil Surgeon that payment of his salary from May 2016 onwards has been stopped on the basis of the Vigilance report informing that the letters of the Bihar School Examination Board, Patna suggesting that the matriculation certificate of the petitioner was found correct has not been issued by the office of the Bihar School



Examination Board, Patna. Subsequently, another complaint has been filed against the petitioner by one Dinesh Kumar Singh before the Lokayukt Bihar, Patna alleging therein that the petitioner had obtained the employment on the basis of a forged and fabricated matriculation certificate. Thereafter, a report was called for by the Member Lokayukt with regard to the allegation made in the complaint petition against the petitioner. On receipt of the report, Member, Lokayukta passed an order dated 14.03.2019 against the petitioner resulting termination of the petitioner from the services and lodging of Nokha P.S. Case No. 81 of 2019 against her in which the petitioner has been granted anticipatory bail vide order dated 03.09.2019, passed in Criminal Miscellaneous No. 55877/2019.

4. Learned counsel for the petitioner further submits that being aggrieved with the order of the Member, Lokayukt, the petitioner filed CWJC No. 22130 of 2019 before this Hon'ble Court challenging the order dated 14.03.2019. The said writ petition was dismissed vide order dated 16.12.2019 observing as under :-

“..... Thus, I do not find any illegality in the impugned order.

The petitioner, if so advised, may file appropriate writ petition if he is aggrieved by any



action taken by the Civil Surgeon in pursuance of the request made by the Lokayukta.

Having considered the facts aforesaid, I find no merit in this writ petition and the same is, accordingly, dismissed.”

5. Learned counsel for the petitioner submits that vide Memo No. 273, dated 04.12.2019 which the petitioner received on 20.12.2019, he was informed that her services have been terminated vide Memo No. 2958 dated 30.09.2019 in compliance with the order passed by the Member Lokayukta. Thereafter, Memo No. 341 dated 12.12.2019 has been issued to the petitioner for recovery of salary and directing her to deposit Rs. 40,73,608/- in the government treasury in pursuance of the order of Member, Lokayukta. Learned counsel for the petitioner further submits that both the orders have been passed without granting adequate opportunity to the petitioner to defend her case and therefore those orders are in gross violation of natural justice. Hence, both the orders ought to be set aside.

3. On the contrary, learned counsel for the State submits that the orders passed by the authorities are basically in compliance with the order of the Lokayukta. Learned counsel fairly submits that vide order dated 21.09.2022, the stay has been granted to the order dated 12.12.2019, issued by the



Incharge Medical Officer, Primary Health Centre, Nokha (Rohtas) considering the fact that the order passed is in violation of the provisions contained in Clauses 27, 28A, 29 and 38 of the Lokayukt Rules, 2011. The order passed by Member, Lokayukta has been challenged by the petitioner in CWJC No. 22130 of 2019 and this Hon'ble Court has refused to interfere in the order passed by the Member, Lokayukta and the said order passed by the learned single Judge has not been challenged, it means that the petitioner has accepted the said order.

4. In this background, this Court upon hearing the pleadings and perusal of the Annexures, it becomes crystal clear that both the orders impugned have been passed behind the back of the petitioner without granting her adequate opportunity of hearing. It also transpires to this Court that the Member, Lokayukta has also granted no opportunity to the petitioner at the time of passing of the order but the action of the Lokayukta is not here in question in the present writ petition. Therefore, this court is only observing the action of the respondent which has been challenged by virtue of the impugned order.

5. Upon going through the order impugned, it transpires to the Court that at no occasion any notice has been issued to the petitioner or any opportunity of hearing has been



given prior to passing those orders of termination and recovery. Hence, this Court is of the firm view that those orders are in gross violation of natural justice. As such, order contained in Memo No. 2958 dated 30.09.2019, issued by the Civil Surgeon-cum-Chief Medical Officer, Rohtas at Sasaram (Annexure-11 to the writ petition) and the order contained in Memo No.341, dated 12.12.2019, passed by the In-charge, Medical Officer, Primary Health Centre, Nokha, Rohtas (Annexure-13 to the writ petition) are hereby quashed.

6. With the aforesaid observation and direction, the present writ petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	18.12.2023
Transmission Date	NA

