

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3925 of 2023

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Shaligram Yadav, Son of Late Arjun Prasad Yadav, Resident of Village-
Majlishpur, P.S.- Lakhnaudih, P.S. and District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Health Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Health Department, Govt. of Bihar, Patna.
3. The Director-in-Chief, Health Department, Govt. of Bihar, Patna.
4. The Civil Surgeon-cum-Chief Medical Officer, Banka, District- Banka.
5. The Addl. Deputy Superintendent-cum-Assistant Addl. Chief Medical Officer, Communicable Disease Tuberculosis, Banka, District- Banka
6. The District Tuberculosis Officer, Banka, District- Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra, Adv
For the Respondent/s : Mr.Mujtabaul Haque, Adv

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-08-2023

1. Heard the learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has put to challenge letter dated 1-8-2022, whereby the petitioner has been restrained from doing collection of sputum. The various authorities at the district health society level have been intimated that the sputum collection work of the petitioner shall not be recognized.

3. The learned counsel for the petitioner submits that since January, 2015 till 1-8-2022, i.e., the date on which the impugned order was issued, the petitioner has also not been paid



salary.

4. The impugned order has been assailed as being an order of termination in violation of the principles of natural justice. The petitioner has sought salary for the period 2015 till 1-8-2022.

5. From bare perusal of Annexure-1 of the writ petition, which the petitioner claims to be his appointment letter, it appears that such claim is nothing but a misrepresentation of a relevant fact. Annexure 1, from bare reading of the same, shows that the petitioner was recommended by a voluntary organisation, namely, “*Adarsh India*” for assisting the Designated Microscopy Centre (DMC)-cum-Directly Observed Treatment - Short course (DOTS) under the tuberculosis prevention and treatment schemes for collecting sputum, which was to be examined by the Lab Technician deputed by the Civil Surgeon-cum-Chief Medical Officer. This arrangement was purely temporary and subject to payment. Annexure-1, which is dated 21-1-2011, by no stretch of imagination, can be said to be an order of appointment. The same does not establish any relationship of employer-employee between the State and the petitioner, whether contractual or on daily wages.



6. From the impugned annexure, it is apparent that DMC has since now been established at the Sadar Hospital, Banka. The petitioner, however, was found to be continuing to collect sputum samples, which he has repeatedly been asked to stop, but it appears he has not heeded to the restraining order issued by the District Health Society.

7. It is under such circumstance that the impugned order appears to have been issued. The same is not an order of termination of service.

8. It appears from the averment made in the writ petition that earlier the petitioner's services were provided by the voluntary organization, *Adarsh India*, which was duly approved. The services were for assisting the tuberculosis prevention and cure schemes at the district level by collecting sputum and providing DOTS facility. It is apparent that the respondents have been asking the petitioner not to collect sputum since establishment of DMC at Sadar Hospital Banka.

9. Several orders in this regard were not being acknowledged by the petitioner to continue to collect sputum for which the responsibility was likely to be placed on the officers and District Health Society. The impugned order has thus been issued as a sequel to various earlier other orders in this regard.



The same is not an order terminating the petitioner’s services, since he was never given any kind of employment, whatsoever.

10. The facts, noted above, this Court would observe that the submission of the petitioner’s counsel that the same is required to be preceded by any kind of show-cause notice, appears to be misconceived, since earlier his services were being availed of as he was recommended by a voluntary organization for assisting the tuberculosis prevention and cure efforts by collecting sputum samples.

11. The writ petition is devoid of merit and dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2023
Transmission Date	NA

