

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17695 of 2022

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Rina Kumari Wife of Niraj Kumar, Resident of Kawadpur, Minakpur, Ward
No. 6, Lakhisarai, Police Station-Suryagarha, District-Lakhisarai.

... .. Petitioner

Versus

1. The State of Bihar through the Director-in-Chief (Nursing), Health Services,
Bihar, Patna.
2. The Civil Surgeon-cum-Chief Medical Officer, Araria.
3. The Incharge Medical Officer, Primary Health Centre, Raniganj, District-
Araria.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Singh, Advocate
For the Respondent/s : Mr.Chandra Shekhar Singh, AC to GA-10

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 05-05-2023 Heard Mr. Ranjan Kumar Singh, learned counsel for

the petitioner and Mr. Chandra Shekhar Singh, learned AC to

GA-10 for the State.

Petitioner, in the present case, is seeking a direction to
the respondents to consider her case for transfer in the district of
Lakhisarai. She is presently posted in the Primary Health
Centre, Sandalpur, District – Araria which is about 275 kms.
From Lakhisarai.

It is her case that her husband is suffering from some
disease. After considering the pleadings available on the record,
this Court passed an order on 20.04.2023 which is being
reproduced hereunder:-

“As usual, a general kind of statement has been made in the



counter affidavit that the petitioner is a Government employee and the transfer/posting matter of a Government employee is a prerogative of a State Government.

The facts of the case would reveal that this petitioner is posted as ANM in the office of Civil Surgeon-cum-Member Secretary, District Health Committee, Araria since 03.07.2012. She has represented to the competent authority regarding her husband suffering from some disease for which he has been operated upon on several occasions since 2004 and he is under treatment of AIIMS, Delhi, Safdarganj Hospital, Delhi, Vellore, IGIMS, Patna, P.G. Hospital, West Bengal. She has also represented that her in-laws are old age and suffering from so many old age ailments. Her representation has been submitted to the Director-in-Chief (Nursing), Health Services, Government of Bihar, Patna but it has not drawn the attention of the Director-in-Chief (Nursing) so far.

This Court is aware of the facts which have been brought to the notice to this Court in several writ applications that the Department is taking up the transfer matters of ANMs on regular basis but it has been shown to this Court that the Department is not considering all the cases which are similarly situated and somewhere it appears that pick and choose method is being adopted ignoring the representation of those who are perhaps not as able as others.

The Director-in-Chief (Nursing) is hereby directed to look into the case of the petitioner who has already stayed for 11 years at one place and take a decision in accordance with the Government policies, without discrimination and submit his affidavit to this Court within two weeks from today.

Mr. Jitendra Kumar, learned AC to GA-10 shall bring this order to the notice of Director-in-Chief (Nursing), Health Services, Bihar immediately.

List this case on 4th May, 2023 under the same heading maintaining its position.”

In response to the aforesaid order, the respondents have filed a supplementary counter affidavit. Paragraph 6, 7 and 8 of the said affidavit are as under:-

“6. That most humbly and respectfully it is stated and submitted that for making transfer of A.N.M., application were invited on departmental portal through online mode till 20.06.2021 and the period was extended till 10.07.2021 vide memo no. 696(6) dated



01.07.2021. The aforesaid period has further been extended till 06.12.2022 vide memo no. 1329(6) dated 24.11.2022: by the department giving opportunity to upload their request application to those employee who have not uploaded their application through online mode at earlier for their transfer. The total 3640 applications have been received through online mode. The petitioner has also uploaded her application through online mode.

Photo copy of memo no. 696(6) dated 01.07.2021 and memo no. 1329(6) dated 24.11.2022 along with a list of online application are annexed herewith and marked as Annexure-A series to this petition.

7. That it is pertinent to mention here that presently a process for making A.N.M. post as State Cadre post is under active consideration and in such a situation the request of petitioner for her transfer is not considerable for the present at the level of department. Considering fact and circumstances, a reasoned order contained in memo no. 723(6) dated 02.05.2023 has been issued under signature of Director-in-Chief (Nursing), Health Services, Bihar, Patna to the effect that a process for making A.N.M. post as State Cadre post is under way thus, after final decision on the issue of the A.N.M. post being a State Cadre post, the request for transfer of petitioner will be taken into account by the Department.

Photo copy of memo no. 723(6) dated 02.05.2023 is annexed herewith and marked as Annexure-B to this petition.

8. That in above view of the matter the grievance of petitioner will be considered after final decision on State Cadre Post.”

At this stage learned counsel for the petitioner submits that in fact the Department has in some of the cases transferred the A.N.Ms. from Araria to other district.



At this stage, learned counsel for the petitioner has placed before this Court a copy of the order dated 04.02.2022 passed in C.W.J.C. No. 5673 of 2021 and the order dated 31.08.2022 passed in MJC No. 890 of 2022. It is submitted that in compliance of the order of this Court, Manju Kumari who was also A.N.M. posted at Araria has been transferred to Gaya.

In the aforesaid view of the matter, this Writ Application is being disposed of with a direction to the respondents to consider the case of the petitioner maintaining uniformity in his decision making and in case he has allowed transfer of Manju Kumari who is said to be the similarly situated, there is no reason as to why the case of the petitioner cannot be considered in the same manner.

Let a decision be taken and communicated to the petitioner positively within a period of two months from the date of receipt/production of a copy of this order.

This Writ Application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J.)

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