

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19047 of 2015

Arising Out of PS. Case No.- Year-1111 Thana- District-

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Mamta Kumari Wife of Dayanand Suman Resident of Village - Yashoda
Math, P.S. - Kanti, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Executive Director, State Health Society, Bihar, Patna.
3. The Civil Surgeon cum Member Secretary, District Health Society,
Muzaffarpur.
4. The In-charge Medical Officer, Primary Health Centre, Kanti, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Kumar, Advocate
For the Respondent/s : Mr. Ravish Chandra, AC to SC 6

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 04-01-2024

Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

2. The present writ petition has been filed for the
following reliefs:-

(i) For issuance of writ in the nature of certiorari to quash the
order of Respondent no 4, the In charge Medical Officer,
Primary Health Centre, Kanti, communicated vide letter no
0564 dated 10.10.2015 by which petitioner was directed to
deposit the amount of Rs 695164-00 the honorarium for the
period from 14.1.2008 to 31.5.2014 for which petitioner worked
on the post of ANM(R) at Primary Health Sub Centre, Bakatpur,



Kanti(Muzaffarpur) which is contained in Annexure-5 to this petition.

(ii) For issuance of writ in the nature of mandamus commanding and directing the respondents not to realise/ get refund of the amount of honorarium for which petitioner has already worked on the post of ANM(R) at the P.H.C Kanti.

(iii) For holding and declaration that respondents do not deserve to pass an order for refunding back of the amounts of Rs.695164=00 the amount of honorarium of the petitioner.

(iv) Grant such other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner submits that in pursuance of the advertisement published by the State Health Society, Patna, the petitioner was appointed on the post of Auxilliary Nurse Midwife (R) on 12.04.2007 and after selection the petitioner had joined under Health Sub Centre, Bakatpur under Primary Health Centre, Kanti. After completion of the contract period the petitioner was allowed to work for further period of 11 months and thereafter, again she has been granted extension for the period of 3 years till the programme is going on. In the year 2014, the petitioner has received a notice which suggests that the petitioner has furnished the false certificate at



the time of furnishing her initial appointment.

4. Learned counsel for the petitioner further submits that the petitioner had served continuously for 7 years and at the time of verification it was found that the certificate furnished by the petitioner was not found as per the requirement in the advertisement. And thereafter, the official concerned had filed an F.I.R against the petitioner and other similarly situated persons and the impugned order has been issued asking the petitioner to deposit/return the amount of honorarium/salary of Rs. 6,95,164/- which was received by the petitioner since 14.07.2008 to 31.05.2014.

5. Learned counsel appearing on behalf of the State submits that during the verification of the certificate of the petitioner, the said certificate was not found to be in accordance with the post of ANM for which information was given to the Civil Surgeon-cum-Member Secretary, District Health Committee, Muzaffarpur and for appointment of ANM, it is mandatory to do ANM course from the recognized ANM School but the petitioner has not obtained the necessary certificate/degree from the recognized ANM Institute. He further relied upon the paragraph 32 of the judgment of the Apex Court reported in **2020 (15) SCC 466 (State of Bihar Vs.**



Devendra Sharma), which is quoted hereinbelow:-

“(32) An argument was raised on behalf of learned counsel for the employees that some of the appointments have been made by Regional Deputy Director as four posts of Assistant Directed were converted into that of Regional Deputy Director. We do not find any merit in the said argument. The post of Assistant Director was provided in the Directorate of Health Services with no delegation of appointment except in the case of emergency against sanctioned posts. Such Regional Deputy Director has not been conferred power of appointment against Class III and Class IV posts. Therefore, the Assistant Director was incompetent to make appointments against the sanctioned posts except in emergent cases and so is Regional Deputy Director.”

6. There is no merit in the writ petition. It is accordingly dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	15.01.2024
Transmission Date	N/A

