

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14070 of 2023

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Dr. Vinod Pratap Singh Son of Indramani Singh Resident of B Kaithi, P.S.-
Kachhawa, District-Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Health Department Government of Bihar, Patna.
2. The Regional Additional Director, Health Services, Patna Division, Patna.
3. The Deputy Secretary, Government of Bihar, Health Department, Patna.
4. The Civil Surgeon Bhojpur at Ara.
5. Dr. Raghavendra Kishore Incharge Medical Officer Sub Divisional Hospital, Jagdishpur, Bhojpur.
6. Dr. Dayanand Singh Incharge Medical Officer Referral Hospital, Jagdishpur, Bhojpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mithilesh Kumar Upadhyay, Advocate
For the Respondent/s : Mr. Binod Kr. Yadav (SC-18)

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 27-06-2024 Heard learned counsel for the petitioner and learned
advocate on behalf of the Respondents.

2. The petitioner has approved this Court in extra-ordinary constitutional jurisdiction under Article 226 of the Constitution of India. Raising an issue as to why he being a senior most Medical Officer in the cadre was transferred from the Sub Divisional Hospital, Jagdishpur at Bhojpur to an inferior Community Health Centre at Buxar.

3. It is contended by the petitioner that the order of transfer is an instance of humiliation without any plausible



reason because of the fact that the Medical Officers who joined the service, subsequently were not transferred even after completion of five years in their respective post. In support of his contention he refers to Annexure-11 series at Page-42 & 43 of the writ petition. Referring to Page-43 of the writ petition, it is stated by the learned advocate on behalf of the petitioner that Dr. Raghvendra Kishor and Dr. Khagendra Kumar were posted in the Sub-Divisional Hospital, Jagdishpur at Bhojpur on 30.06.2018 and 13.05.2016 they were not transferred, while the senior most Medical Officer i.e. the petitioner was transferred.

4. The learned advocate for the petitioner submits that the petitioner wants to now as to whether there is any policy of transfer of medical officers from one hospital to another and if so why such policy is not uniformly applicable to all the medical officers.

5. According to the learned advocate for the petitioner, the specific act of the respondent Authorities, i.e. transfer of the petitioner from Jagdishpur to Buxar and non-consideration of others who stayed in Jagdishpur hospital for more period than the petitioner, employedly shows vindictive attitude of the respondent Authorities towards the petitioner without any fault of him. Therefore, the petitioner has prayed to



revisit his order of transfer.

6. The learned advocate on behalf of the respondents, on the other hand, submits that it is not the case that the petitioner alone was transferred from one hospital to another. As many as 232 medical officers throughout the State was transferred. Only, the petitioner has raised grievance against his transfer. There is no animosity or vindictive attitude of the respondent authorities against the petitioner, on the other hand, he was transferred on routine basis.

7. Principle relating to transfer is well settled. Transfarability in public service is conceived in public interest. It is a phenomenon which a person who interest into public service knowingly excepts in larger public interest. Consequently, it necessarily involves a scarifies of personal interest for public good of the public servant because of its in habitable unsettling effect on him and his family.

8. The Hon'ble Supreme Court in the case of ***Seshrao Nagorao Umap Vs. State of Maharashtra*** reported in ***(1985) II LLJ 73*** has summarized the law on transfarability :-

“It is an accepted principle that in public service transfer is an incident of service. It is also an implied condition of service and appointing authority has a wide discretion in the



matter. The Government is the best judge to decide how to distribute and utilise the services of its employees. However this power must be exercised honestly, *bona fide* and reasonably. It should be exercised in public interest. If the exercise of power is based on extraneous considerations or for achieving an alien purpose or an oblique motive it would amount to *mala fide* and colourable exercise of power. Frequent transfers, without sufficient reasons to justify such transfers, cannot, but be held as *mala fide*. A transfer is *mala fide* when it is made not for professed purpose, such as in normal course or in public or administrative interest or in the exigencies of service but for other purpose, than is to accommodate another person for undisclosed reasons. It is the basic principle of rule of law and good administration, that even administrative actions should be just and fair”.

9. It is not alleged by the petitioner that the order of his transfer was *malafide* or he was transferred without any *bonafide* reason. The petitioner is a general practitioner having M.B.B.S. Degree.

10. The learned advocate for the petitioner shows the instance of one Dr. Rajendra Kishor, he has his specialization in surgery. The department may think that a specialized surgeon



may be retained in a Sub-Divisional Hospital and a general practitioner having only M.B.B.S. degree should serve Community Health Service at Community Health Centre, Buxar.

11. The learned advocate for the petitioner submits that the Community Health Centre is an inferior centre than the Sub-Divisional Health Centre.

12. This Court does not feel so. A general medical officer is required in the general hospital as well as Community Health Centre. The Community Health Centre has achieved its importance specially after Covid Pandemic and the transferring authority for public interest fails that a Senior Medical Officer should man the Community Health Centre at Buxar.

13. Therefore, I do not find any reason to challenge the order of transfer by the petitioner in the instant writ petition and accordingly, the instant writ petition is dismissed.

(Bibek Chaudhuri, J)

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