

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3318 of 2017

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Kamala Kumari Wife of Sri Vijay Chaudhari, resident of village - Bhatauli,
Post Office - Siyawank, Police Station Baghaila, District - Rohtas

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Health Services, Government of Bihar, Patna
3. The Director - in - Chief, Health Services, Government of Bihar, Patna
4. The Regional Deputy Director, Health Services, Magadh Division, Gaya
5. The District Magistrate Cum Chairman, District Health Committee, Aurangabad
6. The Civil Surgeon Cum Chief Medical Officer, Aurangabad
7. The Incharge Medical Officer, Navinagar, Aurangabad
8. The State Health Society Bihar through Executive Director, State health Society Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar, Adv.
For the Respondent/s : Mr. S.D. Yadav-AAG9
Mr. Braj Bhushan Mishra, AC to AAG9

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 16-01-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. The present writ petition has been filed for quashing the memo No.1962 dated 11.12.2016 issued by Civil Surgeon-cum- Member Secretary, District Health Committee, Aurangabad by which the service of the petitioner has been terminated from the post of ANM(R) after passing of one month of notice and her contract has been cancelled after taking the acceptance of District Magistrate -cum- Chairman, District



Health Committee, Aurangabad. The further prayer has been made that the respondents be directed to reinstate the service of the petitioner on the post of ANM(R) in Primary Health Centre, Mali, Navinagar, Aurangabad.

3. Learned Counsel for the petitioner submits that the petitioner has been trained from Bihar Nurses Registration Council in the year 1999 and, thereafter, she passed the examination of revised ANM. He further submits that the petitioner was appointed on the post of ANM(R) on 30.11.2009 under the Civil Surgeon cum Chief Medical Office, Aurangabad on the basis of contract for three years.

4. Counsel further submits that initially contract was for three years, but the petitioner was continued in service upto 18.11.2016 and during the said period, there was no allegation made against her. He further submits that the petitioner was transferred to the Additional Primary Health Centre, Navinagar, Aurangabad with direction to take charge of Medical Child Health. During her posting at Additional Primary health Centre, Mali Navinagar, a patient was admitted on 02.01.2016 and a child was born on the same day. The weight of the newly born child was less than 3 Kg and after passing of 19 days, the husband of the complainant had filed a petition before the



District Magistrate on 21.01.2016. On the basis of complaint, enquiry was set up which resulted into punishment to the petitioner in the form of termination from the post of ANM after one month notice.

5. Counsel further submits that a counter affidavit has been filed in which Annexure-D is the extract of the rule in which ANM has liberty to file appeal before the District Magistrate cum Chairman within 30 days from the date of decision of District Health Society and Executive Director, SHSB.

6. Learned Counsel for the State submits that the order of removal has been made after taking due approval from District Magistrate therefore, the petitioner has no remedy and writ petition is fit to be dismissed.

7. Upon perusal of the record, it transpires to this Court that the decision for removal of petitioner or decision of stoppage of two increments yearly both were recommended, but the DDC has proposed for termination which has been accepted by the District Magistrate. The said extract of the decision has been annexed in the counter-affidavit as Annexure-C.

8. It transpires to this Court that the District Magistrate has not applied his mind at the time of taking



decision. As such, the order of termination contained in Memo No.1962 dated 11.12.2016 (Annexure-12) is hereby set aside.

9. However, the petitioner is directed to file her representation with all points which she has raised in the present writ petition before the District Magistrate and the District Magistrate upon considering the entire facts and circumstances of the cases, shall pass a reasoned and speaking order within 90 days from the date of filing her representation along with the order passed by this Court.

10. With the aforesaid direction, the present writ application stands allowed.

(Dr. Anshuman, J.)

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