

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.397 of 2014

In
Civil Writ Jurisdiction Case No.7681 of 2012

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1. The State Of Bihar
 2. The Director-in-Chief, Health Services, Bihar, Patna.
 3. The Regional Deputy Director of Health Services, Darbhanga Division, Darbhanga.
 4. The Civil Surgeon-cum-Chief Medical officer, Madhubani
 5. The Incharge Medical Officer, Primary Health Centre, Laukhi, District-Madhubani.

... .. Petitioner/s

Versus

Murlidhar Singh son of Sri Bhagrath Prasad Singh, resident of village mubarakpur, P.O.- Tulshigadh, P.S.- Chandi, District-Nalanda.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar, Advocate
For the Opposite Party/s	:	Mr. Satish Chandra Mishra, Advocate
For State of Jharkhand	:	Mr. Sanjay Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

7 07-08-2025 Heard the parties.

2. The present petition has been preferred for the following relief/s:

(i) for review/suitable clarification of order dated 19.4.2012 passed by Hon'ble Mr. Justice Jayanandan Singh (as His Lordship then was) in CWJC No 7681 of 2012 by which the said writ application was disposed of with direction to the Director-in-Chief, Health Services to see to it that his orders



are complied with by the concerned Incharge Medical Officer positively within one month failing which he must initiate action against the officer responsible for the same. It was further directed that after the petitioner's joining on the post is ensured, he shall consider the claim for payment of salary of the petitioner in accordance with law within one month from the date of receipt/production of a copy of the said order.

3. The present review application has been preferred against the order dated **19.04.2021** passed by a coordinate bench of this Court (Hon'ble Mr. Justice Jayanandan Singh as his Lordship then was) in **C.W.J.C. No. 7681 of 2012** by which the writ petition was disposed of directing the respondent to into the matter if the transfer is not implemented, to take appropriate action against the concerned Officer.

4. Aggrieved, the present review petition by the State.

5. The **C.W.J.C. No. 7681 of 2012** preferred by the petitioner, **Murlidhar Singh** for the following reliefs:

(i) for issuance of the appropriate writ



commanding the respondents to post the petitioner as Basic Health Worker, who was transferred by order No.273 dated 03.03.2008 issued by Director Health Services, Bihar, Patna to the Office of Civil Surgeon-cum-Chief Medical Officer, Madhubani;

(ii) for issuance of an appropriate writ to commanding the respondents to pay the salary and other allowance to the petitioner admissible under the law since the date of joining at Madhubani i.e. 27.03.2008;

(iii) for any other relief/reliefs, for which the petitioner is entitled in the facts and circumstances of the case.

6. The facts narrated in the writ petition is/are as follows:

7. As per the petition, the petitioner was appointed as the Basic Health Worker vide memo no.675 (ii) dated 02.09.1990 issued by Director-in-Chief, Bihar Health Services, Patna and posted in the Office of the Civil Surgeon, Hazaribagh



where he continued till May 1997.

8. The claim is that in the year 1997, petitioner was transferred and posted in the Office of Civil Surgeon-cum-chief Medical Officer, East Champaran who posted him at the Primary Health Center, Madhubani where he continued till 2008.

9. Upon query from the learned counsel for the petitioner as to how the Civil Surgeon, East Champaran posted him in the different district, Madhubani, the contention is that there is a block called Madhuban in East Champaran which is also known as Madhubani.

10. Further, the Civil Surgeon-cum-Chief Medical Officer, Madhubani vide memo no.1718 dated 21.06.2008 posted the petitioner and nine others in the Office of Incharge-Medical Officer, Primary Health Center, Lowkahi. However, his joining at Primary Health Center, Laukahi was not accepted.

11. As the transfer order could not be effected, the writ petition was filed in which the writ Court taking into note of the fact that the transfer order has not been implemented directed the Director- in-Chief, Health Services to see to it that the order is complied within a month failing which the In-charge Medical Officer, Laukahi should be proceeded against. The



further order was that once he submits his joining, the payment of salary matter should be considered.

12. Aggrieved the State preferred review petition.

13. The contention in the review petition is that pursuant to the writ Court's orders, the Civil Surgeon cum Chief Medical Officer, Madhubani vide letter no. 1309 dated 08.05.2013 informed that there has been interpolation in the letter no. 1683 to 1775 of the year 2008 in the issue register in his office.

14. An enquiry was initiated and notice was issued to the petitioner who avoided appearing before the Additional Director, Health Services, Bihar, Patna despite several requests made to him vide letter nos. 106 dated 02.08.2013, 22 dated 21.03.2013 as also 36 dated 06.05.2014.

15. As he failed to appear, a fresh notice was published in the daily newspaper 'Dainik Jagran' on 06.06.2014 asking the writ petitioner to appear before the concerned Officer within seven days to put forward his version.

16. It was then that an application was received from the writ petitioner that he is suffering from diseases, his appointment was made in the year 1990, a fire broke out in the Secretariat in the year 1992 and as such the direction be issued



to the Civil Surgeon, Madhubani.

17. It was in the aforementioned circumstance and convinced that it was not a regular appointment the Review Petition was preferred on behalf of the State through Deputy Director, Health Services, Bihar, Patna.

18. When the matter has been taken up and this Court went through the writ petition, it found that prayer has been made to post the writ petitioner as Basic Health Worker pursuant to the transfer order 273 (ii) dated 03.03.2008 issued by the Director, Health Services, Bihar, Patna.

19. However, the petitioner has chosen not to annex the said letter no. 273(ii) dated 03.03.2008 which he wanted to be enforced with. Further, the petition shows his appointment in the year 1990 by the Director-in-Chief, Health Services, Bihar and posted him as Basic Health Worker in the office of Civil Surgeon, Hazaribagh where he continued till 1997. He later moved to the office of Civil Surgeon cum Chief Medical Officer, East Champaran.

20. It is to be noted that neither the appointment letter of the year 1990 nor the transfer order by which he moved from the Hazaribag to East Champaran in the year 1997 are on record.



21. The contention is that pursuant to his transfer to East Champaran, he was posted at Primary Health Center, Madhubani where he continued till 2008 whereafter in the year 2008, the Civil Surgeon, Madhubani posted him to Primary Health Center at Laukahi. When and how he shifted from East Champaran to Madhubani has not been clarified nor there is any supporting document.

22. Upon query, why the documents starting from the appointment to transfer are not on record, there is no answer.

23. The claim is that pursuant to the said order of the Civil Surgeon, Madhubani, he was not posted at Laukahi and as such, he preferred the writ petition.

24. The State despite filing the review petition in the year 2014 chose not to file any supplementary affidavit on the development that took place thereafter. However, this Court is convinced from the conduct of the petitioner that the case is doubtful inasmuch as:

(i) pursuant to the order of the Patna High Court in the writ petition, he failed to appear before the concerned authority despite several notices/press



release;

(ii) he wanted implementation of the transfer order of the Director-in-Chief, Health Services, Bihar dated 03.03.2008 but no such letter has been brought on record;

(iii) his contention is that in the year 1997, he moved/transferred from Hazaribag to East Champaran, the said letter is missing in the writ petition;

(iv) how, under what circumstance and in which year, he was transferred by the Director-in-Chief, Health Services, Bihar, Patna from East Champaran to Madhubani, and/or the said letter on which he is laying claim is again missing.

25. In that background, since the petitioner has failed to complete the chain and/or satisfy this Court from the writ petition itself about his bonafide, the State has made out a case.

26. Civil Review No. 397 of 2014 needs to be



allowed and order modified. However, as the State has also failed to the complete enquiry report and/or provide the result of the said enquiry report, a chance has to be given to the petitioner to appear before the Director-in-Chief, Health Services, Bihar, Patna with all the credentials under his belt to show his bona-fide/appointment/transfer so that the concerned authority can take a decision in the matter.

27. With the consent of the parties as it is ordered that the petitioner shall be appearing before the Director-in-Chief, Health Services, Bihar, Patna in his Chamber at 12:00 P.M. on 21.08.2025, whereafter, the concerned authority shall be free to fix the time of next hearing. All the documents relating to his initial appointment from Hazaribag to East Champaran to Madhubani must be perused/scrutinized once the petitioner provides the same and the State must be represented through an Officer well conversant with the facts/file to present its case whereafter, a decision shall be taken in the matter preferably by 31.12.2025.

28. As the State of Jharkhand is also represented through his counsel, this Court direct him to contact the Civil Surgeon cum Chief Medical Officer, Hazaribag and request him to provide all the documents relating to the claim of the



petitioner with further report whether he has ever worked at
Hazaribagh in the year 1990-92.

29. The order passed by the writ Court in CWJC No.
7681 of 2012 dated 19.04.2012 stands merged with the present
order with the aforesaid direction.

(Rajiv Roy, J)

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